BRITISH FREEWOMEN

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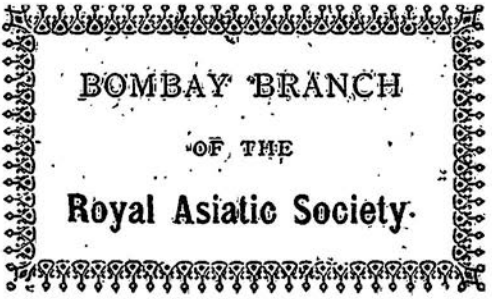

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BRITISH FREEWOMEN

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THEIR HISTORICAL PRIVILEGE

ROYAL ASIA

BY

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"I do own for myself that Seneca the Declaimer saith, that I take pleasure in going back to studies of antiquity, and in looking behind me to our grandsires' better times.

As saith another poet:

"Antique, buried in rubbish, old and musty,
Which make one verst in customs old and new,
And of Laws, Gods, and Men giving a view,
Render the careful student skilled and trusty."

Inner Temple Dec. 25, 1610.

John Selden's Janus Anglorum, translated by Redman Westcott, *alias* Littleton.

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PREFACE

In the spring of 1885, when planning to attend the British Association meeting in Aberdeen that summer, it struck me that I might prepare a paper on a Woman's Subject, and try to find an opportunity of reading it before the Section of Economics and Statistics there. The paper divided itself into two, which I carefully entitled—I. The History and Statistics of Woman's Privilege; and II. The Economic Effects of the Abstention of Women from Voting.

They were, as might have been expected, both rejected. I was told that, though they formed valuable contributions to Constitutional History, the Committee felt they would certainly lead to political discussion, which must not be risked. At a public meeting in Aberdeen the same week, I gave a resumé of my arguments, and the materials then collected I have frequently used since in Drawing-room Addresses, and in private conversation; in public papers, and in friendly correspondence. So many have been surprised at the facts, and interested in the results, that, at the present crisis, I thought it advisable to spend another six months in careful verification of details, and in grouping apparently disconnected data, so that their full import might be seen at a glance. My first authorities were Sydney Smith's "Enfranchisement of Woman the Law of the Land" (1876), and Mr. Chisholm Anstey's Book and Papers on "The Representation of the People's Acts" (1876).

Thence I went through the materials of Constitutional History, the Statutes, Rolls of Parliament, State Papers, Parliamentary Writs, Journals of the House of Commons, Reports of Cases, Works on Law, History, and Archæology, both printed and manuscript.

Just as my paper was complete enough for the purpose in hand, M. Ostrogorski's book upon "Women's Rights" appeared. But he had considered the question in regard to all women, I, only in regard to British Freewomen. He was the more general, I the more special, and I had noted several points which had escaped him in regard to the prime question of the day.

I consulted Miss Helen Blackburn, Editor of the *Englishwoman's Review*, and she urged me to bring out what I had prepared. She had always thought the work necessary, had intended to undertake it herself, when she could find leisure, and thought that now was the most fitting time to publish.

She generously placed her notebooks at my disposal, whence I have gleaned many interesting facts in support of my own. Therefore this little book may be taken as her voice as well as mine. The points I specially wish to be considered, are :—

1st, The Ethnological.—The racial characteristics of our ancestors. They reverenced women.

2nd, The Philological.—All old Statutes are couched in *general* terms. Through a deficiency in the English language, the word "man" is a common term, including woman as well as man, even by Statute.

3rd, The Legal.—The Late Laureate speaks of the liberties of men as widening down from precedent to precedent. We find that the liberties of women have, on the other hand, been narrowed down from precedent to precedent. Sir Edward Coke, the technical cause of this limitation, is only a fellow mortal, liable to error.

4th, The Historical, in which facts speak for themselves.

5th, The Biblical, in which prejudice and mistranslation have confused the ideas of readers on this point. Some may disagree with my conclusions, but I trust they may accept the facts, and do what they can with them.

No one can deny that it is *just* to grant women the Suffrage, no one can deny that it would be *advantageous for them* to receive it. There is no reason that a thing should be because it has been, but when the only objection brought against a thing is, that it has not been, it is time to test if that statement be really true. We have not found the received assertions true in regard to this subject. Hence the publication of this little book.

Thus far I had written as Preface to the little Brochure that I printed for the use of the Women's Suffrage Societies a month ago. But as the whole Thousand was ordered before it came from the printers, it was evident that I ought to publish my work formally, with the many additions I had held back from lack of space, and with the article from the *Athenæum*, No. 3475, which I had been permitted to incorporate. "Amongst the Labour-saving appliances of the day, may be classified collections of verified facts. I trust these may reach the hands of those for whom I write, *brave women* and *fair men*.

CHARLOTTE CARMICHAEL STOPES,
31 TORRINGTON SQUARE, W.C.

6th June, 1894.

BRITISH FREEWOMEN

THEIR HISTORICAL PRIVILEGE

CHAPTER I.

PRELIMINARY.

ANCIENT HISTORY AND BRITISH WOMEN.

"Let us look at the beginnings of things, for they help us to understand the ends."

THOUGH early British traditions may survive in later Literature, we cannot accept them for critical purposes. The century of the birth of Christ is the earliest date of our authentic history. The words of the Romans, strangers and enemies, are unexceptionable witnesses. Nothing impressed the Romans more than the equality of the sexes among the Northern nations; the man's reverence for womanhood, the woman's sympathy with manhood, and the high code of morality that was the natural outcome of this well-balanced society.

Plutarch ("de Virtut Mul.") says, "Concerning the virtues of women, I am not of the same mind with Thucydides. For he would prove that she is the best woman concerning whom there is least discourse made by people abroad, either to her praise or dispraise; judging that as the person, so the very name of a good woman ought to be retired and not to gad abroad. . . . And seeing that many worthy things, both public and private, have been done by women, it is not amiss to give a brief historical account of those that are public in the first place." Among the examples he cites, there is that of the continental Celts, kindred to the British. Some of these wandered north-west, and some due south. "There arose a very grievous and irreconcilable contention among the Celts before they passed over the Alps to inhabit that tract of Italy which now they inhabit, which proceeded to a civil war. The women, placing themselves between the armies, took up the controversies, argued them so accurately, and determined them so impartially that an admirable friendly correspondence and general amity ensued, both civil and domestic. Hence the Celts made it their practice to take women into consultation about peace or war, and to use them as mediates in any controversies that arose between them and their allies. In the league, therefore, made with Hannibal, the writing runs thus—If the Celts take occasion of quarrelling with the Carthaginians, the governors and generals of the Carthaginians in Spain shall decide the dispute; but if the Carthaginians accuse the Celts, the

Celtic women shall decide the controversy." The Romans were much struck by the similar position of women among the Britons, Belgic and Celtic alike. Elton, on the authority of Ammianus Marcellinus, says of the women, "that their approximation to the men in stature was the best evidence that the nation had advanced out of barbarism." Cæsar tells us ("Eng." 117) that the British women were made use of in Court, in Council, and in Camp, and that no distinction of sex was made in places of command or government. Selden, in his chapter on "Women" in the "Janus Anglorum," reminds us, that "Boadicea so successfully commanded the British armies as to beat and conquer the Roman Viceroy, and no doubt that noble lady was a deliberative member of the Council where the resolution was taken to fight, and that she should command the forces." Tacitus ("Vita Agric.," c. xv.) says, "Under the leadership of Boadicea, a woman of kingly descent (for they admit of no distinction of sex in their royal successions), they all rose to arms. Had not Paulinus, on hearing of this outbreak, rendered prompt succour, Britain would have been lost." He owns elsewhere that had the Britons but been able to unite among themselves, the Romans could not have conquered them; and he more than once notes the bravery of the women in stimulating the warriors.

More fully in his "Annals" (B. xiv.), Tacitus describes how Suetonius Paulinus attacked Mona (Anglesea) the stronghold of the Druids; and how the women priestesses

dashed about clothed in black, like furies, with dishevelled hair, and with torches in their hands, encouraging and threatening the soldiers, and when all was lost, perishing bravely among the flames kindled by the conqueror. This is told, not in the tones with which one belauds compatriot heroines, but in those of an enemy, to whom these women added new terrors and increased troubles. Meanwhile, in the East, the Roman statue of Victory had fallen from its place in the temple of Claudius at Camalodunum; evil signs and omens weakened the hearts of the Roman soldiers, and frantic Priestesses encouraged the hopes of the British force thereby. Boadicea, having succeeded in uniting some of the neighbouring tribes, had driven Catus over the sea, had subdued Petelius Cerialus, had destroyed the Colonia at Camalodunum, had sacked Verulam, and marched on London, building an intrenched camp near what we now call Islington. Suetonius Paulinus, fresh from the slaughter of the sacred Druid host, advanced to meet her. Tacitus describes the position of the armies, and reports her speech. Not being "unaccustomed to address the public," she called her army to witness "that it was usual for the Britons to war under the conduct of women, but on that occasion she entered the field, not as one descended from ancestors so illustrious to recover her kingdom and her treasure, but as one of the humblest among them, to take vengeance for liberty extinguished, her own body lacerated with stripes, and the chastity of her daughters defiled. . . . They would see that in that

battle they must conquer or perish. Such was the fixed resolve of a woman; the men might live if they pleased and be the slaves of the Romans." "Neither was Suetonius silent at so perilous a juncture, for though he confided in the bravery of his men, yet he mingled exhortations with entreaties. 'In that great host were to be seen more women than efficient men. Unwarlike, unarmed, they would give way the instant they felt the sword and valour of those victorious troops, etc.'" Then follows the account of the battle. "The soldiers spared not even the lives of the women, nay the very beasts, pierced with darts, seemed to swell the heaps of the slain. The glory gained that day was signal indeed, and equal to the victories of ancient times, for there are authors who record that of the Britons were slain almost 80,000, of our men about 400, with not many more wounded."

That Boadicea's defeat was gloried in as being such a triumph to the Roman arms is in itself a witness to her prowess. The numbers of the slain did not likely represent warriors alone. The carriages with their wives and children lined the field. The Romans thought that the defeated Britons *could not* fly past these. They *would not.* Husbands, wives, and babes were slain together, and reckoned together, perhaps the very beasts of burden among the heaps of the slain were reckoned too. Anything to increase the Roman "glory."

There is no picture more touching in the history of our country! The forces of oppression and lust, the spirit of Nero himself, then Emperor, were ranged against

this woman. With superhuman energy, as patriot, as mother, and as *individual*, she struggled against these in defence of country, home, and honour. And *she failed!* Had circumstances been but slightly altered, had the brave Caractacus been but able to hold out a little longer, and take shelter with her, instead of trusting the rival Queen Cartismandua, how differently might our British history have read to-day.

Cartismandua was a Queen, too, in her own right, wedded freely to the neighbouring Prince Venutius, but nevertheless personally elected as the supreme ruler and leader of the united tribes of the Brigantes, making contracts and treaties for all. Caractacus, after his nine years' struggle, had fled for shelter and for help to her in the year 50 A.D. But as Elton says in his "Origin of English History," "she was farseeing enough to see the hopelessness of contest with the Romans." Already Romanised in heart and spirit, she betrayed her countryman, cast off her husband, forfeited her honour, and finally lost the crown of her inheritance.

The blameless Boadicea suffered for her sins twelve years later, in that sad year of 62 A.D. That defeat rang the death-knell of the freedom of British womanhood, and of the spirit of British manhood. In such a crisis it is *not* the fittest who survive. They who lived to tread upon her grave were born of lower possibilities. Yet she *has lived*, the typal woman of the British past.

I know that I may be expected to speak of the Empress Helena, claimed by Camalodunum (now Colchester) as

the only daughter of its Coel II., the wife of Constantius, the mother of Constantine, the Christian convert, the finder of the true cross. Good as she was, refined and cultivated too, she was, nevertheless, but a Romanised Briton, a Roman wife, a Roman mother, under Roman Law. And the Roman Law was a meaner foster-mother for feminine virtues than the free old British Law.

The withdrawal of the Roman troops for home affairs hastened a new crisis, in which the Britons, made limp by protection and an alien government, were unable to hold their own against invading tribes. No longer was the British wife the brave help-meet, the counsellor, the inspirer of the British man. Roman customs had completed what the Roman arms and the Roman laws had begun, and the spirit of British Womanhood had no reserve force in itself to spare. Then came an infusion of new blood into the land, fortunately not of Latin Race, but of a good northern stock, that reverenced woman still. Speaking of that stock in earlier times, Tacitus ("Germ." c. viii.) says, "The women are the most revered witnesses of each man's conduct, and his most liberal applauders. To their mothers and their wives they bring their wounds for relief, who do not dread to count or search out the gashes. The women also administer food and encouragement to those who are fighting." "They even suppose somewhat of sanctity and prescience to be inherent in the female sex, and, therefore, neither despise their counsels nor disregard their responses. We have beheld, in the reign of Vespasian, Veleda, long

reverenced by many as a deity. Aurima, moreover, and several others, were formerly held in similar veneration, but not with a similar flattery, nor as though they had been goddesses (c. xviii). Almost alone among barbarians they are content with one wife. . . . The wife does not bring a dower to the husband, but the husband to the wife. . . . Lest the woman should think herself to stand apart from aspirations after noble deeds, and from the perils of war, she is reminded by the ceremony which inaugurates marriage (in which she is handed a spear) that she is her husband's partner in toil and danger, destined to suffer and to dare with him alike in peace and in war. . . ." "She must live and die with the feeling that she is receiving what she must hand down to her children, neither tarnished, nor depreciated, what future daughters-in-law may receive, and may so pass on to her grandchildren" (c. xix). "Thus with their virtue protected, they live uncorrupted by the allurements of public shows or the stimulant of feastings. Clandestine correspondence is equally unknown to men and women. The young men marry late, and their vigour is unimpaired. Nor are the maidens hurried into marriage. Well-matched and vigorous they wed, and the offspring reproduce the strength of their parents" (Church's Translation).

These racial peculiarities also marked the early Saxon invaders, though there were no foreign witnesses to note them with surprise. The native writers took them too much as a matter of course to consider them worth

noting. It is only indirectly that we can glean the state of affairs from public records. Samuel Heywood, in his "Ranks of the People among the Anglo-Saxons," says (p. 2), "The word Cwen * originally signified a wife in general, but was by custom converted into a title for the wife of a king. . . . It was customary for Saxon monarchs to hold their courts with great solemnity three times a year. The Queen Consort, at these assemblies, wore her crown also, and was seated on a throne near the King. When an assembly of the nobles met at Winchester to adjust the complaints of the secular clergy against St. Dunstan, the King presided, having his Queen seated by his side ("Eadmer de Vita St. Dunstan," 2 Aug. Sacra., 219). . . ."

"The Queen Consort had her separate household and attendants. . ." "It is highly probable that in ancient as well as modern times the Queen Consort was considered as *feme sole* in all legal proceedings. Sir Edward Coke being called on to prove that this was the common law before the Conquest, produced a charter made by Ethelswurth, Queen of the Mercians, in the lifetime of her husband, giving away the lands in her own power, her husband being only an attesting witness. We find Queens Consort acting in all other respects as *femes soles* in tenure, management, and alienation of real pro-

* "Cwen" originally meant a wife, but it also meant a *companion* or *peer*, hence in old French Histories we see it used instead of Count, as "Thibaut Cwens de Champagne." In a roll in the Tower of London, Simon de Montfort is called "Quens of Leycester" (Selden's "Titles of Honour").

perty. Emma, Ethelred's Queen, gave a munificent grant to St. Swithins, Winchester. Alswythe, the Queen of King Alfred, began to erect a house for nuns at Winchester, finished by her son Edward. Queens attested their husband's grants, and recorded their assents to acts done and engagements made. Queens Dowager were also present, and subscribed their names to Royal grants as being content with them."

Though, of course, the Royal rank increased the woman's power, the law and custom for Queens was but the reflex of the common law and custom of the time for all women. Selden says, "Ladies of birth and quality sat in the Saxon Witenagemot," and Gurdon, in his "Antiquities of Parliament," vol. i., p. 164, adds, "Wightred, the next Saxon legislator, summoned his Witas to the Witenagemot at Berghamstead, where his laws were made with the advice and consent of his Witas (which is a *general* term for the nobility), for the laws were signed by the King, Werburg his Queen, the Bishops, Abbots, Abbesses, and the *rest* of the Witas" (*see* "Sax. Chron.," 48). In Spelman's "Concilia Britannica," p. 190, we find also that Wightred's council at Beconceld (694) included women, for the Queen and Abbesses signed the decisions along with the King and the Abbots (p. 192). The charter to Eabba the Abbess is granted by Wightred and his Queen (p. 486).

The charter to Glastonbury is signed, after the name of the King, "Ego Eilfgiva ejusdem Regis Mater cum gaudio consensi" (p. 533). In the "Diploma Comiti,

Regis Angliæ," after the King's name, "Ego Emma Regina signo crucis confirmo."

The second charter of Edward the Confessor to St. Peter's at Westminster contains not only the signature of the sainted King, but "Ego Editha Regina huic donationi Regiæ consentiens subscripsi" (p. 631). And at the council summoned to consider the Bull of Nicholas the Pope to Edward the Confessor, after the King, signs "Ego Edgida Regina omni alacritate mentis hoc corroboravi." The different expressions used, show that the signatures were no mere accident, no vapid formality.

In the council held to grant privileges to the Church "præsentibus etiam clarissimis Abbattissis, hoc est, Hermehilda, Truinberga and Ataba reverenda, ut subscriberent rogavi" (p. 198).

"King Edgar's charter to the Abbey of Crowland (961) was signed with the consent of the nobles and abbesses, for many Abbesses were formerly summoned to Parliament" (Plowden's "Jura Anglorum," p. 384. Also William Camden's "Antiquity of Parliament").

"Ego Ælfrith Regina" signs the Charter that the King of Mercia grants to the Abbey of Worcester. "Ethelswith Regina" subscribes with Burghred, King of Mercia or Mercland, in the Register of Worcester.

Edward the Confessor's charter to Agelwin is confirmed by his wife, "Ego Edgith Regina consentio."

So in a charter of King Knut to St. Edmundesbury, his wife, Alfgwa, signs, "Ego Alfgifa Regina" (Selden's "Titles of Honour").

There had been amid the Saxons, Queens Regnant as well as Queens Consort. William of Malmesbury writes in admiration of Sexburga, the Queen Dowager of Cenwalch, King of the West Saxons, 672, A.D., "that there was not wanting to this woman a great spirit to discharge the duties of the kingdom. She levied new armies, kept the old ones to duty, governed her subjects with clemency, kept her enemies quiet with threats, in a word, did everything at that rate that there was no other difference between her and any King in management except her sex" ("Malmesb. Gest. Reg.," b. i.). Ethelfleda, too, the daughter of the great Alfred, called the Lady of Mercia, ruled that kingdom after the death of her father and her husband for eight years, and completed the work that her great father had begun in finally defeating and subjugating the intruding Danes. Women landowners sat in the Shire Gemote, or held Motes of their own; women Burgesses were present at Folkmotes, or at Revemotes. In short, the privileges of women in the Saxon times were nearly equal to those they held in British times.

The Abbess Hilda presided over the monastery at Streneshalh, Whitby, where was a man's wing, and a woman's wing, the church coming between them. Among her disciples were educated many learned bishops. An ecclesiastical synod met at her abbey (664), at which she presided, that the calm of her presence and the influence of her control might soothe excitement on the vexed questions of the day, chiefly those regarding Easter. There were delegates from Rome, from the Scots, from the Angles, and the

Britons (*see* lib. 3, c. xxv., and lib. 4, c. xxiii., xxiv.). Also Spelman's "Concilia" (p. 145) describes "Synodis Pharensis rogatu Hildæ illic Abbatissæ celebratæ." The earliest British writer still extant, Gildas of Alcluid (now Dumbarton), reports this fact without comment or surprise. Spelman preserves also (p. 205) "Epistola Johannis Pa. VII.," to "Ethelredum Regem Merciorum." "Episcopus suo more obnitentibus beatissima *virgo* Elfleda soror Alfridi, Abbattissa post Hildam de Strenes-halh, terminum negotio fixit dicens Dimissus ambagibus testamentum fratris mei, cui præsens interfui, profero," etc. Other women held similar positions in England, as well as St. Bridget of the Abbey of Kildare in Ireland.

The Norman invaders swept like a whirlwind over old institutions, yet some of the strongest stood firm. They were, after all, of the same Church, and Church and Cloister preserved the records of Saxon liberties, and the customs of Saxon times. The clerical and lay powers of many Abbesses were handed down unimpaired to their successors in Norman times. The conquest was not one of extermination but of superposition. The great mass of the *people* remained Saxon in heart. The Normans were, too, of a kindred race, though they had come from a long sojourn in a land where language, thought, and custom had become Latinised, a land that already held the principles of the Salic Law. William promised to respect the laws of the country, but there is no appeal against a conqueror's will, or a soldier's sword.

The lands they wrested from the Saxons, the Normans held of the King by Feudal Tenure or by Military Service. Their laws, customs, and language dominated the Saxons, as did their swords. But only for a time. The struggles with France formed, through a common antagonism, a united nation of the varying races in the island. To complete the union, the nation went back to the language of the Saxons, and, when opportunity for freedom called, went back to their old laws as a basis of the new. That women suffered more than men did from the Norman invasion might only have been expected. But that they did not do so nearly to the extent that it is commonly supposed, can be proved by reference to competent authorities, by whom the limitations of their privileges are shown to proceed on definite and comprehensible lines.

CHAPTER II.

THE MODERN BASES OF PRIVILEGE.

"All rights arise out of justice. . . . Justice is a constant and perpetual will to award to each his right. . . . Jurisprudence is the knowledge of divine and human things, the science of what is just and unjust."—BRACTON. DE LEGIBUS ANGLIÆ.—"Of acquiring the dominion of things."—*Temp. Hen. III.*

THE relation between property and privilege has been the determining principle in Constitutional Evolution, and the distinction between the sexes in the matter of Property has been the radical cause of the distinction between them in regard to Privilege. It is necessary to trace this. The custom of Military Tenure made male heirs more valuable to the Crown than female heirs, inasmuch as personal service was more effective and reliable than representative service; and, therefore, in early Norman days, when all lands lay in the King's gift, he was eager to confirm each succeeding son of the last owner in his possessions, before *any* of the daughters. But the principles of justice, the customs of the land, and the springs of human nature, combined in opposition to a further exercise of the Royal will, so that *all* the daughters suc-

ceeded before any of the collateral heirs, before uncle, cousin, or nephew. Husbands and fathers would not have risked their lives freely in the King's wars, if they knew that wives and daughters were to lose their estates, at the same time as they lost the protection of their strong right arms. A survival of Saxon opinion strangely affected further the position of daughters, when the chaos of custom took form in law. An eldest-born son could inherit to the detriment of his younger brothers, following the Norman custom of primogeniture, but the eldest-born daughter held no privilege over her younger sisters, who were all *co-parceners* with her as regarded the inheritance, in the manner that children of both sexes inherited among the Saxons, and among the representatives of the Saxons, the free men of Kent. An indivisible inheritance, such as a title, fell in abeyance among daughters until decided by the selection of the Crown, though it was generally granted to the eldest daughter. [i.] Unless a woman, therefore, was an only child, she did not succeed to the entire advantages of "the heir," but as only child, and sole heiress, she inherited to the full the rights and privileges of her father, brother, or ancestor. Sex-in-itself did not *disqualify* a woman from anything. There was no excusing a woman a duty, and *consequently* no denying her a privilege. "*Essoin de servitio regis* lyeth not where the party is a woman" (Statutes 33, Ed. I.). The only advantage granted her, that of "sending a deputy," she was allowed in common with men, frail or infirm, or over the age of bearing arms.

The Feudal System has been credited with limiting Personality and Privilege to males; therefore it startles some students of history to find that it was only on the extinction of the Feudal System, and the translation of service-payments into money-payments, that women lost the definite place assigned to them. Women's rights came second in. Feudal Times, because they had to be protected by men's swords; women's rights came nowhere in later times, when freedom towards property would have made them able to protect themselves. The encroachments naturally took place first in regard to married women. In ancient times even a married woman could be "free," both as an inheritor and as an earner. In the very highest ranks she remained so. She was free to contract, to sign, to seal, to act as a *feme sole*. On her marriage she conferred her title on her husband, as men did theirs upon their wives. The lands were held in common. The responsibilities she could not undertake herself, he fulfilled as her representative. When she died he lost his representative character; his tenure of her lands was only "by courtesy," and that only if he had a child by her; if not, they reverted at her death to the donor. (*See* "Statutes of Realm," vol. i., p. 220.) But a widow also could hold her husband's lands under certain conditions, either by her marriage settlement, her husband's will, the King's gift, or "the courtesy of England." Many examples of widows doing so are given later. Even where there were heirs, and her husband died intestate, a widow had a legal right to the third part

of her husband's property. In Kent she had a right to the half till she married again, as a man held the half of his wife's property till he married again. (*See* "The Customal of Kent.")

The Laws of Chivalry refined the Upper Classes, inculcating Truth, Loyalty, Chastity, Courtesy, Liberality, Reverence for Women and Generosity to the Weak. But the real foundation of Privilege in Chivalric times was practically Strength, Courage and Success among men, Beauty, Grace and Honour among women. These qualities being temporary, were not synonymous with Justice. The position of Divinity is an unstable one, depending on the attitude of the worshippers. When Chivalry faded out of men's hearts, women felt that the outer shell of custom meant little. It only set them on the shelf.

A tone of Chivalry affected the hearts of the traders and manufacturers of Chivalric Times, a tone healthier, because more founded on justice and equality. There was even then a confusion of ideas between return-value of labour abroad, and labour at home; but there was no confusion about the return-values of similar labour performed by men or by women. Women were equal in all social guilds, and trading women were equal in trading guilds.

The notion that partnership in toil could justify the assumption of the whole proceeds of the common labours to the use and will of one of the partners did not dawn on the simpler minds of our ancestors. It

took centuries of mistranslations of the first principles of government to let this partial idea develop into its modern complexity. In Prynne's "Fundamental Rights of English Freemen," p. 3, art. 7, we read, "That it is the ancient and undoubted right of every freeman that he hath a full and absolute propriety in his goods and estate. And that no taxes, taillages, loans, benevolences, or other charge ought to be commanded, imposed, or levied by the King or his ministers, without *common* consent by Act of Parliament." In order that husbands might have this absolute proprietary right over the whole of the common property, it was gradually extinguished among wives; and the second right for them naturally lapsed in consequence of the other. The absorption of a married woman's property by her husband developed for her a massive code of legal restrictions, and a stern doctrine of civil disabilities. She was dissociated first from property, thence from privilege, finally she became property. This was but the natural outcome of the non-recognition of her Personal and Proprietary Rights. In any history, therefore, of British Freewomen, we must practically follow legal precedent, in assuming the non-existence of the *feme couverte*.

Through the different principles of inheritance, there have always been fewer heiresses than heirs; through the success of the various methods of protecting male professional and trade industries against female competition, there have always been fewer female owners of earned property; through the lower rate of women's wages,

and various causes tending to disable single women even in the retention of property, these owners represented smaller incomes than did men of their own class.

Representative Freewomen, therefore, have always been in a small minority. The dominance of a *temporary majority* sends a minority into the Opposition; in which exile it lays plans for future action, when in the see-saw of political change its turn comes to rise again. The majority has always to consider the minority in its calculations and actions. But a *permanent majority*, consciously or unconsciously, labours to oust a *permanent minority* from recognised and recognisable existence even as an Opposition. By *always* being able to overbear opinion, it makes the expression of opinion futile. Either it is concordant and unnecessary, or discordant and inoperative. The expression of either becomes a waste of time, and is soon denied. And thus women have been ousted by degrees from the building up of the superstructure of the English Constitution, in whose foundations they had been considered. The privilege of British Freewomen remained a recognised quantity for ages. Though that quantity became "small by degrees and beautifully less," it was not finally annihilated till the heart of the nineteenth century.

The process of diminution was hastened in periods of spasmodic activity through association of principles that should have worked in the opposite direction, had the principles been understood and applied in their purity.

No doctrine is more antagonistic to the spirit and teaching of Christ than that of the subjection of women, and yet, though the change from the Druidic religion to the worship of Odin affected them but slightly, the changes within the Christian Creed mark epochs in their gradual enthralment; as, for instance, the sixteenth century Reformation and the seventeenth century Revival. On the Suppression of the Monasteries, Abbots and Abbesses were alike extinguished. But the power and privilege of the Abbot in the House of Peers as in the Church, survived in the Bishop. The extinction of the Abbess, without successor either in Church or State, took away finally the right of one class of representative women to sit in the Upper House. The suppression of the Social and Religious Guilds founded and supported by women in common with men, gave a seeming reason for later exclusion of Freewomen from trade guilds.

The loudest Puritan cry of the seventeenth century was, it is true, "No Bishop;" but the practical work Puritanism was really allowed to do in politics was to make the representation of women in the Lower House theoretically impossible.

As antagonistic to the doctrine of the subjection of women are the Principles of Liberty. How can men become truly free that ignore, for others, the liberties founded on the same reasonings by which they enfranchised themselves? Yet every great era in the Evolution of so-called *Popular Liberty* has been marked by contemporary restrictions of Feminine Freedom. Hence, in the seventeenth

century, when hereditary serfdom was finally abolished, and when slavery, by purchase, became impossible in Britain, we first find the doctrine promulgated that tended to disfranchise women. When outbursts of fervid eloquence on "Liberty" were preparing the nation to lay out its millions in enfranchising even its colonial slaves, in 1832, the disfranchisement of women was effected by the use of a single statutory word. When, on the 29th of June, 1867, William Lloyd Garrison, the champion of Negro Emancipation, was receiving an ovation at St. James' Hall, men were discussing in St. Stephen's whether to give women political existence or not. Though the single excluding word was erased from the statute book, the House and the Courts of Law next year determined that its spirit lingered there. When a new extension of the Suffrage took place in 1884, the claims of women were again disallowed. The new rights of men emphasised more strongly the old wrongs of women. A lowered qualification for the Franchise protected property, not only inherited or earned, but that which was only in the process of earning. This privilege of prospective property increased the opportunities of earning enormously. But *only* when its possession was vested in a man. Women's possession of property, more difficult to acquire through laws of nature, custom, inheritance, marriage, and the protection of male industries, was further rendered less stable by their exclusion from the faintest voice in determining laws, taxation, and home and foreign policy. The progress of education has enriched public ideas, has

altered the Content of public Conscience, has facilitated public discussion of facts and theories. The relations of representation to taxation are assailed. New bases of privilege are being proposed. There are those who hold that Property is no sound foundation on which to build a Constitution. Some would put in its place the notion of Justice, which others name the right of the Individual. But those who accept this are divided into two great classes, the first considering Justice in its own nature, and treating Individuals as the indivisible units to which Justice is to be applied, units not to be segregated by *any* test into groups receiving Justice or no Justice. The second class also considers Justice applicable to all individuals, but adds a rider, that, in their opinion, *individuals can be only masculine.* Something in the construction of their minds permits them to harmonise, to their own satisfaction, two discordant ideas. Masculinity seems to them a natural basis of privilege — a solid foundation of Justice.

Others hold the older doctrines in a modified form, believing that individuality without qualification of individuals cannot provide a stable basis. If the idle and improvident, by mere force of numbers, are to dominate the industrious and the provident, the ends of justice would be defeated. By property or industry tests those are included who have interests to preserve. Those who help to support the State should have a voice in determining its action. No one is excluded from Enfranchisement thereby. A very moderate degree of industry

or success will make it possible to any one to attain the franchise. A worthy incentive to labour is a moral good. Amidst these thinkers there are also two classes: those who consider that the rights of women in themselves, and in the property they inherit or acquire, are as important as those of men, and should be made as stable; and those that, by combining two principles of Enfranchisement, make a logical cross division, importing the totally unconnected dividing principle of sex into the consideration of the rights of property. What is simply *unjust*, when individuals are selected on the basis of sex, becomes both *illogical* and *unjust* when questions of sex are imposed on those of property. Sex is an inseparable accident, and when accepted as the Basis of Justice, closes the question; property is a separable accident, and must be considered upon different lines. The various objections to any simple, logical, homogeneous, and just arrangement of the Bases of Privilege, while depending on the doctrine of sex, are worked out by two sub-sections of thinkers upon different lines. One section says boldly, "when persons qualified by property are also qualified by masculinity, we grant them privilege." The other section analyses the attributes of masculinity, and apply each as a separate test to the person qualified by property. "The physical force argument is the foundation of government, most men are stronger than most women, therefore no women must interfere in government." Women would "require an improved understanding to vote for a member of Parliament." "Women cannot understand

mathematics, nor master the classics," and when they proved they could, the principle was sent back further into statements that "their brains were not heavy enough," "their moral force not strong enough." "Women have not written Shakespeare, composed Beethoven, painted Raphael, built St. Peter's." The understanding of proportional representation, and the far-reaching economic results of bi-metallism, have been seriously proposed as tests for women. But have the whole series, or *any one of them*, ever been applied to the mere male electors of the realm? When pressed hard on this point, these objectors, in their confusion, fall back upon precedent and on authority to prove that to be *legal* which they cannot prove to be *just or reasonable.* It is no argument in favour of anything that *it has been*, or else reformation would be impossible. But when the sole argument against its *being* is that it *has not been*, the consideration of Legality and of Precedent becomes a necessity to the advocates of Justice. Many mistakes have been taken for facts, many fallacious arguments based upon erroneous premises. A Review of the History of Women that have hitherto ever exercised any privilege is necessary for generalisations to be based thereon. For by this process we may unite the followers of Legality and Precedent with the worshippers of Justice and Equality, and the union of the two forces, like those of the sun and moon upon the sea, may raise the high "tide in the affairs of women that leads on to fortune."

The Review is encouraging in two aspects. In the

light of the modern doctrine of Heredity, we see that our far-away ancestors held opinions to which we may hope that our successors may yet *revert;* and from Ancient History we find that a recognition of the existence of women in the State, far from being novel or revolutionary, would only be the fulfilling of the fundamental principles of the English Constitution.

CHAPTER III.

ROYAL WOMEN.

"The country prospers when a woman rules."

In order to simplify and classify the mass of material at hand, it is advisable to take by their degree the ranks of women among the Anglo-Normans. Among the Queens, only because they precede in order of time and of number, we may take first

Queens Consort.—In Doomsday Book, Matilda, the wife of the Conqueror, is entered as holding of the King, many lands forfeited by the Saxons. "She was made the feudal possessor of the lands of Beortric, Earl of Gloucester, hence the practice of settling the Lordship of Bristol on the Queen generally, prevailed for centuries. On her death in 1083, her lands went back to the King by feudal tenure. The Conqueror kept them in his own hands, meaning them for his and her youngest son Henry, who afterwards succeeded." (Seyer's "Memoirs of Bristol," chap. iv., p. 318). Later queens had separate establishments, officers and privy purse. "The Aurum Reginæ, or Queen's Gold, is distinguished from all other

debts and duties belonging to the Queen of this Realme. All other revenues proceed to her from the grace of the King, this by the common law . . . which groweth upon all fines paid to the King, licenses, charters, pardons, of which she receives one-tenth part. After her death the King recovers his right to hold this tenth. This duty hath been enjoyed by the Queens from Eleanor, wife of Henry II. to Anne, second wife of Henry VIII." (Hakewell's speech in Parliament on Aurum Reginæ. Addit. MSS., Brit. Mus. 25, 255.)

Even to our own days Queens Consort have had the privilege of acting as *femes soles*. But in early times they exercised considerably more power in the State than we realise to-day. They sat in the Councils, even in the presence of the Kings, and gave their consent to measures along with Kings and Nobles. "The Queen-wife of England also superscribed her name *over* their warrants or letters of public direction or command, although in the time of Henry VIII. the fashion was that the queens wrote their names over the left side of the first line of such warrants, and not *over* them as *the Kings do*" (Selden's "Titles of Honour"). But as many of the Queens Consort, though thus entitled to be ranked among "Freewomen," were not of native extraction; we do not dwell upon all their privileges, preferring to hasten on to those that indubitably were British Freewomen.

Queens Regnant.—The first critical moment in the History of Queens Regnant occurs at the death of Henry I., who had, as he considered, arranged satis-

factorily for the succession of his daughter Matilda. His attempt proved that the French Salic Law had not been made law in England. A quaint account of his proceeding occurs in the "Lives of the Berkeleys," published by the Gloucester Archæological Society, 1835, p. 2. "King Harri the first, third sonne of King William the Conqueror, had issue remaining one daughter named Maude . . . the sayd King Harri send for his foresayd daughter Maude the Emparice into England, and in open Parliament declared and ordeyned her to bee his eire. To whom then and there were sworen all the lordes of England, and made unto her sewte, admittinge her for his eire. Amongs whom principally and first was sworen Stephen Earle of Boleyn, nevowe of the sayd King Harri the first." But as Selden says, "I do very well know, that our perjured barons, when they resolved to exclude Queen Maud from the English throne, made this shameful pretence, 'that it would be a shame for so many nobles to be subject to one woman.' And yet you shall not read, that the Iceni, our Essex men got any shame by that Boadicea, whom Gildas terms a lioness" (Janus Anglorum). The same author, in noting the laws made by various kings, enters the reign of Stephen as that of an unrighteous king who had no time to make laws for the protection of the kingdom, because he had to fight in defence of his own unjust claim. "In 1136 Henry of England died, and Stephen Earl of Boulogne succeeded. At Mass on the Day of his Coronation, by some mistake,

the peace of God was forgotten to be pronounced on the people" ("Antiquitates," Camden). Prynne calls him "the perjured usurping King Stephen." The general uncertainty of the succession is betokened in the struggle. Very probably had there not been a Stephen to stir up the nobles, the country might have rested peaceably under the rule of Matilda.

It seems strange that the oldest Charters of the express Creation of the title of Comes (Count or Earl) are those of Queen Maud, who first created the Earldom of Essex and the Earldom of Hereford. To Aubrey de Vere also she granted the Earldom of Cambridge, or another title if he preferred it, and he chose the Earldom of Oxford. A struggle like the Wars of the Roses was closed by the death of Stephen and the peaceable succession of Matilda's son, Henry II.

Another lady of the family was supplanted by the proverbially "cruel uncle." King John in 1202 made prisoners of his nephew, Arthur, Duke of Brittany, and the Princess Eleanor, his sister, called "The Beauty of Brittany." Arthur is supposed to have heen murdered by his uncle, and Eleanor was confined for forty years in Bristol Castle. A true daughter of Constance, she is said to have possessed a high and invincible spirit, and to have constantly insisted on her right to the throne, which was probably the reason that she spent her life in captivity. (*See* the close Rolls of the Tower of London, and the Introduction xxxv.)

But the second real crisis was that which closed the

Wars of the Roses. Another Stephen appeared in Henry VII., who, fortunately for the people, simplified matters by marrying Elizabeth of York, the rightful heir. Jealous in the extreme of his wife's prerogative, he used his high hand as the conqueror of Richard and the Kingdom, delayed her coronation as long as he dared, ignored her in his councils, and magnified his relation as husband, to the extinction of her glory as Queen.

Henry VIII. enjoyed to the full the advantage of an undisputed succession. He restricted the rights of Queens Consort, as his father had ignored the rights of Queens Regnant. A strange Nemesis followed, foretold in the so-called prophecies of Merlin. That these really were talked of, before the events occurred, can be proved by MSS. among the uncalendared papers temp. Henry VIII. Public Record Office. There is in full "the Examination of John Ryan of St. Botolphs, Fruiterer, concerning discourses which he heard at the Bell on Tower Hill, Prophecies of Merlin, that there never again would be King crowned of England after the King's son Prince Edward, 22nd August, 1538." James V. of Scotland had sadly said on his death-bed, "The Kingdom came with a lass, and it will go with a lass." So was it to be in England. The pale sickly youth who succeeded, third of the Tudors, died without wife or child, and on the steps of the throne stood four royal women, whose lives form the most interesting period of national history. Each of them had a special claim. Mary, pronounced illegitimate by the Protestant

party, and by statute of Parliament, inherited through her father's *will* alone; Elizabeth, pronounced illegitimate by the Catholic party, and by a similar statute, stood second in that will; Mary, Queen of Scotland and of France, showed flawless descent from Margaret, the elder sister of Henry VIII.; and Lady Jane Grey proved like flawless descent from Mary, Henry's younger sister.

Henry, a despot even "by his dead hand," had, failing Edward, left the crown to Mary, then to Elizabeth, then to Lady Jane Grey. Edward VI., not a minor by the laws of England that allowed Government to commence at fourteen years, considered both his sisters illegitimate under his father's statutes, preferring of the two Elizabeth's claim. But for the peace of the kingdom he left by *will* the crown to Lady Jane Grey, ignoring, as his father had done, the prior claims of Mary, Queen of Scotland and of France. The results of the complication are too well known to be here rehearsed.

The first act of Mary was to establish her own legitimacy, the honour of her mother, and the power of the Pope; her second was to establish the office of Queen Regnant "by Statute to be so clear that none but the malitious and ignorant could be induced and persuaded unto this Error and Folly to think that her Highness coulde ne should have enjoye and use such like Royal Authoritie . . nor doo ne execute and use all things concerning the Statute (in which only the name of the King was expressed) as the Kinges of this Realme, her

most noble Progenitours have heretofore doon, used and exercised" (1 Mar., c. iii.)

Both she and her sister, at their coronations, were girt with the sword of State, and invested with the spurs of knighthood, to show that they were military as well as civil rulers. Fortunately for her country, and for herself, Elizabeth lived and died a maiden Queen. The bitter consequences of her sister's Spanish alliance taught her the importance of independence as a ruler. Whatever we may individually think of her character, all must allow her reign to have been in every way the most brilliant in the history of our country, only equalled in our own times by that of a Matron Queen, who has held the reins of Government in her own hand and whose husband came to the land but as Prince Consort. Queen Anne's reign is also worthy of note, and can bear comparison with that of most Kings, for its military successes, and its literary activities.

Queens Regent.—Selden argues against Bodin of Anjou, who upheld the Salic Law, "are not discretion and strength, courage, and the arts of Government more to be desired and required in those who have the tuition of kings in their minority, than in the kings themselves till they are come of age?" He considers the French use of Queens as Regents to be destructive of their own theories.

Queens as Regent-Tutors of young kings have not held the same position in England as they did in France or in Scotland. But as governing Regents and Viceroys they

have often done good service. William of Normandy more than once left the country in charge of his Queen. Richard I., by commission, appointed his mother, Eleanor, to be Regent of the Kingdom in his absence, and wrote to her to find the money for his ransom when imprisoned abroad. She sat as Judge in the Curia Regis, taking her seat on the King's Bench by right of her office. She granted concessions to the inhabitants of Oléron (to women as to men) even down to the reign of John (1 John ; *see* "Rymer's Fœdera"). Edward III. found his Queen Philippa a Queen Regent worthy of himself. Henry V. appointed his mother as Regent in his absence, and even Henry VIII., when he went abroad on his last French War, left his Queen, Catherine Parr, Governor of the Kingdom. I have gone through their correspondence in the Public Record Office, and it bears ample testimony to her capability and his trust in her judgment. In "Olive *versus* Ingram," 1739, it is noted, "Queen Caroline was once appointed Regentor of the Kingdom."

It was with little less than Vice Regal splendour and power that Joan, Dowager Countess of Pembroke, ruled the Palatinate for nine years in the reign of Edward I. ; or Isabel de Burgo in that of Edward II., or Agnes de Hastings in that of Edward III. ; ruling in the stead of their sons until the youths attained majority at the age of twenty-one.

CHAPTER IV.

NOBLEWOMEN.

"Noblesse Oblige."

In Selden's "Titles of Honour," iii., 890, he says, "Of feminine titles some are immediately created in women, some are communicated by their husbands, others are transmitted to them from their ancestors, and some also are given them as consequents only of the dignity of their husbands and parents." Of "immediate creation" he gives the example of Margaret, Countess of Norfolk, created by Richard II. Duchess of Norfolk, wherein the investiture is mentioned by the patent to be by putting on her the cap of honour "recompensatio meritorum." Henry VIII. created Anne Boleyn Marchioness of Pembroke. James I. created Lady Mary Compton the Countess of Buckingham in her husband's lifetime, without permitting him to share the honour. He also created Lady Finch, first Viscountess of Maidstone, and afterwards Countess of Winchilsea, limiting inheritance to heirs of her body.

Anne Bayning, wife of James Murray, was created

Viscountess Bayning of Foxley in 1674. Several titles have been granted for discreditable causes, too few for "recompensatio meritorum." Men that were merely rich have been made peers. Women that have been truly noble have not been made Noble by Letters Patent. The Baroness Burdett Coutts is the only modern example I can recal.

The titles that women received from their husbands were doubtless intended more as an honour to their husbands than to themselves, though they carried, at times, considerable privileges along with them. They bore them as widows until their death, sometimes with the full honours and powers their husbands had borne.

There are some curious cases of titles being *assigned.* Randol, Earl of Chester and Lincoln, granted the Earldom of Lincoln to his sister, the Lady Hawise de Quency. She afterwards granted the title to John de Lacy, who had married her daughter Margaret, a grant confirmed by the King in a charter, limiting the inheritance to the heirs of Margaret.

I have already noted the two limitations of a daughter's inheritance of property. The same affected titles. But having inherited, she became endowed with every privilege to the full; and every duty was exacted of her to the utmost.

Women paid Homage.—In spite of many careless remarks to the contrary, women paid homage. "John, heir of the Devereux, died under age; his sister Joane, making proof of her age, and doing her homage, had

Livery of the Lands of her Inheritance" (2 Ric. II., Dugdale, 117).

The summons to Ladies as well as to Lords for aids to the King was "de fide et homagio."

It is true that at some periods widows did not pay Homage for the lands of their deceased husbands; but neither then did men pay Homage for the lands of their deceased wives, holding only by "the Courtesy of England." "Because if Homage be given, it might never return to the lawful heir" ("Statutes of the Realm, Lands held by Courtesy," vol. i., p. 220).

Received Homage.—Many examples are given in the "Rotuli Hundredorum," "Testa de Nevil" and "Kirkby's Inquest." Isabella and Idonea de Veteripont insisted on Fealty and Homage from the inhabitants of Appleby. 4 Edward I., as did Anne Clifford later (Nicholson's "History of Westmoreland," v. 2). One curious distinction comes in here between the sexes, as a result of the system of *coparceny* among sisters. A brother might pay Homage to his brother, but not a sister to her sister. The statute of 20 Henry III. (1236) enacted that "the law regarding sisters, co-heirs, be used for Ireland as in England, that the eldest sister only pay Homage to the Overlord or to the King in her own name and that of her sisters, but that the sisters do not pay Homage to the sister for that would be to make her Seigneuress over the other sisters" (Rot. Parl., 20 Henry III.).

They could hold Courts Baron.—A petition, 16 Richard II., appears, praying that no Liegeman should be *compelled*

to appear at the Courts and Councils of the Lord or of the Lady to reply for his freehold.

In Rot. Hundred, Edward I., many women were entered as holding Courts of Frank-pledge and Assizes of Bread and Ale, and as having a Gallows in their Jurisdiction, as Johanna de Huntingfeud held view of Frank-pledge in the Hundred of Poppeworth, Canterbury, vol. i., p. 53. Elena de la Zouche also, Agnes de Vescy, and Elena de Valtibus in Dorsetshire, the Countess of Leycester at Essedon in Buckinghamshire. ("Relation of Women to the State in past times." Helen Blackburn, *National Review*, Nov., 1886.)

The Countess Lucy kept her Courts at Spalding during the banishment of her first husband, Yvo de Taillebois. (Selby's "Genealogist," 1889, p. 70.) The Pipe Roll of 31 Hen. I. shows that she had agreed to pay the King 100 marks for the privilege of administering justice among her tenants (homines).

In Anne Clifford's Diary, Harl. M.S., 6177, appears: "1650. This time of my staying in Westmoreland, I employed myself in building and reparation at Skipton and Barden Towers, and in causing ye bounds to be ridden and my Courts kept in my sundry mannors in Craven . . . . "

"1653. In the beginning of this year did I cause several Courts to be kept in my name in divers of my mannors in this Country."

"1659. And ye Aprill after, did I cause my old decayed Castle of Brough to be repaired, and also the

Tower called the Roman Tower in ye said Castle, and a Court-House for keeping of my Courts."

There is preserved in Swansea a charter granted, 2 Edward III., to Aliva, wife of John de Mowbray, of the land of Gower. It recites and confirms various previous charters of the land of Gower, with the appurtenances, and *all manner of Jurisdictions,* and all Royal Liberties, and free customs which Gilbert de Clare the son of Richard de Clare theretofore Earl of Gloucester and Hertford had, in his land of Glamorgan. (Report of Municipal Corporations, 1835, p. 383.)

This practice seems to have long survived in modified forms. In same Report, p. 2850, regarding the Borough of Ruthin, "It was in evidence, and was indeed frankly admitted by the deputy-steward, that, upon impanelling the jury at the Borough Court Leet it is the uniform practice for some agent of the Lady of the Manor to address a letter, which is delivered to the foreman of the jury in their retiring-room, recommending two persons as aldermen, who are invariably elected. As a part of this system, it was proved that in many instances the duties and fees payable on the admission of burgesses to their freedom had been defrayed by the Lady of the Manor; and that the uncontrolled power of impanelling the jury was left to her agent. The only answer furnished by the deputy steward was that he had taken for his guide the usage of the place, as pursued by his predecessors, without reference to charters, which had only of late years come under discussion." Also in page 2840, regarding Rhuddlan,

"As far as any ruling body or corporation can be said to subsist in a borough thus circumstanced, the Lady of the Manor must be considered to elect that body; for the Steward of the Court Leet is appointed by her during pleasure; and he gives the constables a list of the persons who are to serve on the jury by whom the two bailiffs, the only subsisting officers of the corporation, are chosen." The Lady of the Manor there also paid the Constables.

Held by Military Service.—There were 15 ladies summoned for military service against Wales "de fide et homagio," in 5 Edward I., and again in 10 Edward I. Among these were Devorgilla de Balliol, Agnes de Vescy, Dionysia de Monte Canisio, and Margaret de Ros. A writ was issued to Isabella de Ros, commanding her "in fide et homagio" to send her service to the muster at Portsmouth for the King's expedition to Gascony, 14th June, 1234. Elena de Lucy was summoned from the county of Northampton "to perform military service in parts beyond the sea. Muster at London, 7th July, 25 Edward I." Joan Disney of Lincoln was summoned "to perform military service against the Scots. Muster at London, 7th July, 25 Edward I." These are but a few selected from many others that appear in Palgrave's Parliamentary Writs. It is true that a substitute might be sent by anyone, *male or female*, with reasonable excuse. "On 16th April, 1303, proclamation was made that all prelates, persons of religion, women and persons who were unfit for military service, who were willing to commute

their service by fines, might appear before the Barons of the Exchequer at York on 17th May ensuing. Otherwise they, or their substitutes, must appear at the muster at Berwick on the 26th May."

Palgrave's Parliamentary Writs give long lists of women holding castles, towns, and military feods in 9 Edward II., and Harl. MS., 4219, in "Hundreds, Civitates, Burgi, and Villæ in Comitatu Norfolk et *Domini* eorundem," gives many names of women.

Margaret, widow of Lord Edmund Mortimer, was charged with providing one hundred men for the wars in Scotland out of her lands at Key and Warthenon. Dugdale's "Peerage and Baronetage," vol. i., p. 173.

In 3 Edward II. writs docketed "De summonicione servicii Regis" were issued to Abbots and Abbesses alike for military aid against the Scots, "de fide et dilectione;" and to Nobles, Lords and Ladies alike in "fide et homagio." On the 13th September following Domina Maria de Graham proffers the service of two knights' fees for all her lands in England, performed by four servants with four barded horses; and many noble ladies offer equivalent service.

Joane Plantagenet, the Fair Maid of Kent, inherited from her brother the Earldom of Kent, and from her mother the Barony of Wake, by which she was styled the Lady of Wake. She married Sir Thomas de Holland, who, through her, became Earl of Kent without creation. Her son Thomas succeeded both. His widow Alicia died possessed of 27 manors held by direct feudal

or military tenure, beside many freeholds. (*See* "Inquisitions Post Mortem"; 4 Henry IV.)

They could be Knights.—Not only in Romances, not only in Spenser's "Faery Queene," but in books of Chivalry, we may see that women could be knights. Mary and Elizabeth were made knights before they were made Queens. Abergavenny Castle was held by knight's service. William, Baron Cantilupe, by marrying Eva, daughter and co-heir of William, Lord Braose, obtained the Castle and Lands. Her tomb in St. Mary's Church, Abergavenny, 1246, is of interest as being the earliest stone effigy of a woman known in England. Her daughter, Eva de Cantilupe, succeeded to the barony and the castle, and was a knight. Her tomb is the only instance known of the stone effigy of a woman adorned with the insignia of knighthood, 1247. In 1589, Edward Neville sued for the Barony against Mary, Lady Fane, as being entailed in the Heir Male. His suit was refused. The Lord Chief Justice Popham determined "that there was no right at all in the Heir Male; the common Custom of England doth wholly favour the Heir General . . . and Her Majesty would require to make a new creation to prefer the Heir Male to the Heir Female" (Sir Harris Nicolas' "Historic Peerages," p. 15).

Inherited Public Office associated with the Title or Property.—The story of Ela of Salisbury illustrates the views with which the early Normans regarded heiresses. She was born in 1188. Her father, the Earl of Salisbury, died 1196, leaving her sole heir. She inherited both

title and lands before his three brothers. Her mother conveyed her away secretly to a castle in Normandy, to save her from possible dangers during her minority. An English knight, William Talbot, romantically undertook, as a troubadour, to discover her whereabouts, and, after two years, brought her back to England. King Richard betrothed her as a royal ward to his half-brother, William Longespée, son of Fair Rosamund, who became, through her, Earl of Salisbury. At King John's coronation at Westminster, William, Earl of Salisbury, is noted as being present among the throng of nobility. (*See* "Roger Hoveden.") He died 1226, leaving four sons and four daughters. Though besieged with suitors, Ela preferred a "free widowhood" to selecting another Earl Salisbury. When her son came of age he claimed investiture of the Earldom, but the King refused it *judicialiter*, by the advice of the Judges, and according to the dictates of Law. The Earldom and the government of the Castle of Sarum were vested in Ela, not in her dead husband.

The office of Sheriff of Wiltshire, her right by inheritance, she exercised in person until 21 Hen. II., when, probably to facilitate her son's entrance into the Earldom, she retired as Abbess to the Abbey of Lacock, founded by herself. Even then, however, the youth did not receive the title, and she survived both son and grandson. The note to this Biography adds, "Though the law of female descent, as applied to baronies by writ, has long ceased to govern the descent of earldoms, it certainly did

during the first centuries after the Norman conquest." (Bowle's "History of Lacock Abbey.")

Isabella and Idonea de Veteripont, who afterwards married Roger de Clifford, and Roger de Leybourn jointly held the office of **High Sheriff of Westmoreland**, and insisted on the Burghers bringing their cases to them personally, 15 Ed. I. The office was held afterwards, also in person, during the reigns of the Stuarts, by the brave Anne de Clifford, Countess of Dorset, Pembroke, and Montgomery, and Baroness of Westmoreland. In virtue of her office, she sat on the Bench of Justices in the Court of Assizes at Appleby. (Durnford and East's "Term Reports," p. 397; Nicholson's "History of Westmoreland," vol. ii., p. 20.) "As the King came out of Scotland, when he lay at York, there was a striffe between my father and my Lord Burleigh, who was then President, who should carie the sword; but it was adjudged to my father's side, because it was his Office by Inheritance, and so it is lineally descended on me" (Anne Clifford's Diary, Harl. MSS., 6177). We may add here, though belonging properly to the following chapter, a parallel case:

"William Balderstone had two co-heiresses, Isabel and Jane. Isabel married Sir Robert Harrington of Hornby, and Jane, first Sir Ralph Langton, and second Sir John Pilkington. When Jane was "the young widow" of Sir Ralph Langton, in 1462, she, along with her sister Isabella and Sir Robert Harrington, her sister's husband, appeared in court to vindicate their right to the offices

of the **Baylywicks of the Wapentakes** of Amoundernes and Blakeburnshire, peacefully occupied by their ancestors time out of mind, and claimed by one Giles Beeston, on the plea of Letters Patent. Giles not appearing, judgment was given in their favour, and a precept issued accordingly to the Sheriff at the Castle of Leicester, 28th May, 2 Ed. IV. (Townley MSS.; "History of Whalley," vol. ii., p. 358, 4th edition, 1876, by Whittaker.)

The word, Bailiwick, was then applied to the office of a Sheriff. (*See* 4 Henry IV., c. v.; Statutes, vol. ii.) "Every Sheriff of England shall reside within his Bailiwick."

"Guy de Beauchamp, late Earl of Warwick, held the manor of Southanton as of inheritance from his deceased wife, Alicia, by the Sergeanty of bearing a Rod before the Justices in Eyre in the county. (9 Edward II.; Blount's Tenures.")

Marshal.—Isabel de Clare, only daughter of Richard de Clare, Earl of Pembroke, brought the Earldom into the family of the Marshals of England by marrying William le Marshal. She had five sons (each of whom succeeded to the Office, without leaving an heir) and five daughters. The eldest of these, Maud, Countess of Norfolk, received as her share of the family property the Castles of Strigail and Cuniberg, and, with them, the office of Marshal, and in the 30th Hen. III. "received Livery by the King himself of the Marshal's Rod, being the eldest who by inheritance ought to enjoy that great Office by descent from Walter Marischal sometime the

Earl of Pembroke. Whereupon the Lord Treasurer and the Barons of the Exchequer had command to cause her to have all rights thereto belonging and to admit of such a deputy to sit in the Exchequer for her as she should assign." (Dugdale Peerage, vol. i., p. 77.) Her son Roger exercised it during the remainder of her life and succeeded her.

Alicia de Bigod, his widow, succeeded him in his honour. I find among the petitions to the Council of 35 Edward I, held in Carlisle, one of "Alicia de Bygod Comitissa Mareschall" to be allowed to send two proxies to the Parliament of the King, "posuit loco suo, Johem Bluet militem, vel Johem de Fremlingham ad sequend pro dote sua coram Rege et consilio suo." This must have been granted, for these proxies do appear in her name in the Parliament Roll of 35 Edward I. But she was summoned by writ personally (22nd January), in right of her office, to meet Edward II. and his bride at Dover on or about 4th February. (1 Edward II.; Palgrave's "Parliamentary Writs.")

The office of Marshal and title of Earl of Norfolk were afterwards given "in tail general" to Thomas Brotherton, son of Edward I. and brother of Edward II. His daughter, Margaret, inherited the office with the title and arms, as she appears as "Margaret Countess Marshal" in the Parliament Roll of 1 Richard II. (Rot. Parl., 713.)

In the petition of John, Earl Marshal, for precedence over Earl Warwick, he says that "Thomas of Brotherton was son of Edward I., and bore the Royal arms. Of him

came Margaret, of whom came Elizabeth, of whom came Thomas, of whom came John, now Erle Mareschal, and so apperteneth ye said place in yis Riall court to this Lord Earl Mareshal by cause of the blode and armes Riall with ye said possession" (Rot. Parl., iii. Henry VI.). The office afterwards fell to the Mowbrays. Anne Mowbray, heiress, married the young Duke of York, second son of Edward IV., at the age of four years. She carried the office of Marshal to him, but he died in the Tower with his brother, Edward V., and his uncle seized the title.

"Adeline de Broc held possession of her Guildford estates by the service of being **Marshal in the King's court**. (Temp. Henry II.; Blount's Tenures.") "It was adjudged in B.R., Car I., that the Office of Marshal of that Court well descended to a *feme*, and that she might exercise it by deputy if she pleased." (Callis, 250.)

High Constable.—Humphrey de Bohun, Earl of Hereford and Essex, held the manors of Harlefield, Newnam, and Whytenhurst, County Gloucester, by the service of High Constable. He left two daughters, but the elder, Eleanor, succeeded to the office, which she conveyed to her husband, Thomas of Woodstock, who exercised it for her; the younger sister, Mary, marrying Henry Plantagenet of Bolingbroke, afterwards Henry IV.

High Steward.—Henry, Earl of Leicester, through the Barony of Hinckley held the office of High Steward of England. He died, leaving two daughters, the elder of whom, having married abroad, left the dignity free to her sister, who married John of Gaunt, fourth son of

Edward III. Through her right he exercised the office of Steward, which their son, Henry IV., carried back to the Crown.

High Chamberlain.—Justice Ashurst, from the King's Bench in 1788, notes that women have served the office of High Chamberlain (Rex *v.* Stubbs). I have not yet found the name of the lady that he refers to; but we all know that the Baroness Willoughby d'Eresby held the Office down to our own times, though she allowed her son to exercise it as her deputy. "Catherine, sole daughter and heir to the last Lord Willoughby d'Eresby, became 4th wife to Charles Brandon, Duke of Suffolk. She afterwards married Thomas Bertie, and her son was Peregrine, Lord Willoughby d'Eresby, who married Mary, daughter of the Earl of Oxford, whose son Robert (1 Jac. I.) inherited the title and Office of High Chamberlain." (Dugdale.)

"The Manor of Hornmede, Hertforde, the Lady Lora de Laundford holds as a Serjeanty of our Lord the King by being Chamberlain to our Lady the Queen." (7 Edward I., Rot., 39.)

Ela, third daughter of Ela of Salisbury, foundress of Lacock, in 1285 was returned as holding the Manor of Hoke-Norton in Oxfordshire *in capite* by the Serjeanty of carving before our Lord the King on Christmas Day, when she had for her fee the King's knife with which she cut. (Placit Coron., 13 Edward I., Rot., 30. Bowle's "Annals of Lacock Abbey," p. 160.)

Champion.—The Manor of Scrivelby was held by the

Dymocks on condition of the possessor acting as King's Champion. When the heiress, Margaret, inherited the property, she inherited the Office, which her son, Thomas Dymock, performed for her at the coronation of Henry IV.

"The office of Champion at the last coronation was in a woman, who applied in that case to make a deputy." (*See* "Olive *versus* Ingram," 1739, and Co. Litt, 107.)

They could be Governors of Royal Castles.—Isabella de Fortibus held the Borough and Camp of Plympton, and governed the Isle of Wight. In 8 and 9 Edward II. there was a settlement of Hugo de Courtenay's petition to succeed to his kinswoman Isabella de Fortibus in governance of the Isle of Wight, etc. Isabella de Vesci held the Castles of Bamborough and Scarborough.

Nicholaa de la Haye held Lincoln for the King. "And after the war it befell that the Lord the King (John) came to Lincoln, and the Lady Nicholaa came forth from the western gate of the castle, carrying the keys of the castle in her hand, and met the said Lord King John and offered him the keys as Lord; and said she was a woman of great age, and had endured many labours and anxieties in that castle, and she could bear no more. And the Lord the King returned them to her sweetly, and said, Bear them, if you please, yet awhile." This story appears in that Royal Commission of Inquiry into the condition of the country named the "Rotuli Hundredorum." The King was desirous to persuade so steadfast an adherent to continue to hold "in time of peace and in time of war" what, in those disturbed days,

was one of the most important fortresses of the kingdom. For Nicholaa de la Haye and Gerard de Camville her husband had stood by King John in all his troubles; their attachment to him before he was King had brought suspicions and confiscations upon them. Gerard had to pay a heavy sum to Richard I. to be repossessed of his own estate, while Nicholaa paid the King three hundred marks for leave to marry her daughter to whom she would, provided it was not to an enemy of the King. After the death of Richard, Gerard de Camville was reinstated as Governor of Lincoln Castle, during the remainder of his life, and at his death John transferred the appointment to his wife, "a lady eminent in those days," says Dugdale. She continued at her post, and the King also appointed her Sheriff of Lincoln. In 1217 the partisans of Louis the Dauphin laid siege to Lincoln. Though the town sided with the besiegers, though 600 knights and 20,000 foot soldiers came to reinforce them, Nicholaa continued her defence of the castle till the Earl of Pembroke arrived with an army to her relief. In the next year she was again appointed Sheriff of Lincoln by Henry III. But this closed her public career, and she died in peace at Swaynston in 1229. ("Sketches from the Past," *Women's Suffrage Journal*, March, 1888.)

"Several Charters in one of the Duchy of Lancaster's Cowcher Books, prove that the Constableship of Lincolnshire, the Wardenship of Lincoln Castle, and the Barony of Eye or Haia, always went together. They belonged successively to Robert de Haia, Richard de Haia, and

Nicholaa de Haia, who became the wife of Gerarde de Camville." (Selby's "Genealogist," 1889, p. 170.)

They could also be appointed to various Offices.—As Nicholaa de la Haye was made **Sheriff**, so was the wise and renowned Lady Margaret, Countess of Richmond, made **Justice of the Peace** in the reign of Henry VII.; and the Lady of Berkeley under Queen Mary held the same office. Lady Russell had been appointed Custodian of Donnington Castle for her life, at a Salary of one pound and twopence halfpenny a day, but for Contempt of her Overlord, she was tried in the Star Chamber, Mich., 4 James I. (*See* "Moore's Law-Cases.")

They could act as Femes Soles when married, or as Partners.—The Countess Lucy [ii.] was one of the few Saxon heiresses that carried her property down into Norman times. She had three Norman husbands, Ivo de Tailleboys, Earl of Anjou, Roger Fitzgerald de Romar, and Ranulph, Earl of Chester. Among the various Charters to the Monastery of Spalding are two, granting and confirming the grant of the Manor of Spalding to the Monks there. The exact words of the second Charter are these, "I, Lucy Countess of Chester, give and grant to the Church and Monks of St. Nicholas of Spallingis with Soc and Sac, and Thol and Them, with all its Customs, and with the liberties with which I best and most freely held in the time of Ivo Tailleboys and Roger Fitzgerald and the Earl Ranulph my Lords in almoign of my soul, for the Redemption of the soul of my father and of my mother, and of my Lords and

relatives," etc. "Inspeximus by Oliver Bishop of London 1284." (Selby's "Genealogist," p. 70, 71.) In the lives of the Berkeleys, from the Berkeley MSS., 1883, published for the Bristol and Gloucester Archæological Society, some interesting particulars are given of the Lady Joane, daughter of Earl Ferrars and Derby, and wife of Lord Thomas of Berkeley, second of the name. "It appears by divers deeds that in the xxvith yeare of Edward the first, as in other yeares, this lady by hir deeds contracted with Richard de Wike and others as if she had been a *feme sole;* and for her seale constantly used the picture of herself holding in her right hand the escutcheon of her husband's arms, the chevron without the crosses; and in her left hand the escutcheon of her father's family, circumscribed Sigilla Johannæ de Berklai," vol 1., p. 206.

Elizabeth, Lady of Clare, had buried three husbands, and had retained her maiden name through their time as holding the honour and the Castle of Clare,* which she inherited on the death of her brother, the last Earl of Gloucester and Hereford, at Bannockburn. Her daughter, Elizabeth de Burgh, married her cousin Lionel,

* The petition of her "humble Chapeleyns Priour et chanoyns de sa priourie de Walsingham," that she would not allow the Franciscan friars to settle in their neighbourhood, is communicated by the Rev. James Lee-Warner of Norwich to the *Archæological Journal*, vol. xxvi., p. 167 (1869). One reason they bring forward is that if the intruders were to propose an indemnity, it could only be "par serment, ou par gages, ou par plegges," and that such security is of no avail, as the claims of the apostolic See are beyond computation.

third son of Edward III., in whom the Earldom of Clare became the Dukedom of Clarence.

In the Act of Resumption of 1 Henry VII., the King excludes the lands of his wife, his mother, Cecile, Duchess of York, and others. And in the Act of Restitution of Margaret, Countess of Richmond, "she was to hold her lands as any other sole person, not wife, may do," though she was married at the time to the Earl of Derby.

Had the Cure of Churches.—The Abbesses of certain convents inherited the right of dominating the religious succession in some churches (*see* "Dyer on Grendon's Case"), "divers churches were appropriated to prioresses and nunneries, whereof women were the governesses" (Callis, 250). In Colt and Glover *v.* Bishop of Coventry and Lichfield about a presentation to a church, the evidence shews that many women before the Reformation had the Cure of Churches; that an Archbishop could not legally appropriate a benefice with the Cure to a nunnery between 25 H. 8., and the dissolution of monasteries, though the Pope did.

"Mrs. Foulkes is the Lay-rector of Stanstey, and takes the tithes. She pays one shilling a year as quit-rent to the Lord of the Manor of Stanstey, County Denbigh" (Blount's "Tenures").

"That all appropriated churches shall have secular vicars" (*see* "Statutes," vol. ii., Henry IV., c. 13).

They could be Peeresses in their own Right, and liable to Summons to Parliament in Person.—Sir Harris

Nicolas says, "The usual form of a writ of summons to Parliament is common. There is one solitary instance, however, of an express limitation of the dignity to heirs male, *i.e.*, in the Barony of Vesci" * ("Historic Peerages and Baronies by Writ"). In Lady Spenser's case (M. 11, Henry IV., f. 15) it was decided that it was clear law at all times that a Dame might be "Peer de Realm and entitled to all the privileges of such."† "All peers of the realm are looked on as the King's Hereditary Councillors" (*see* Jacob's "Law Dictionary").

The opinions of Peeresses as representing property, were always considered in the councils of the King. In the early Norman days they sat among "The Magnates Regni" in right of their fees and communities. "In the Constitutions of Clarendon, Henry II., we find that 'Universe Persona Regni, qui de Rege tenent in Capite' were to attend the King's Court and Council." (Report of the Lord's Committee on the Dignity of a Peer of the Realm.) The Abbesses, especially those of Shaftesbury, Barking, Wilton and St. Mary of Winchester, holding directly of the King,

* It is strange that this unique exception should have occurred in this barony, which had come through a woman, and had been held by a woman. Yvo de Vesci came over with William the Conqueror, and married Alda Tyson, daughter and heir of the Lord of Alnwick. Their daughter Beatrix was sole heir, and married Eustace of Knaresborough, their son taking his mother's name of De Vesci.

† *See* also "Statutes," vol. ii., p. 321. Noble ladies shall be tried as peers of the realm are tried, when they are indicted of treason or felony, 20 Henry VI.

were summoned to Anglo-Norman Parliaments, as they had been summoned to Anglo-Saxon Witenagemots. Selden mentions their Summons of 5 Edward I. as being extant in his time; their Summons, twenty-nine years later, to the Parliament of 34 Edward I. is still extant, written in the same manner and terms as those of the other clergy. (Palgrave's "Parliamentary Writs"; 34 Edward I.)

Other Peeresses were summoned according to their inheritance, which, we have seen, followed different lines from what it does to-day, or **by proxy.** By an exemption, intended as a privilege in these days of rough travelling and dangers, a peeress was permitted "to chuse and name her lawful proxy to appear for her *ad colloquimn et tractatium coram rege* on her behalf."

Alicia de Bigod sent her two proxies to Parliament, 35 Edward I. (*See* Rot. Parl., 189.) Selden and Gurden mention "*nine* peeresses so summoned to the Parliament of 35 Edward III." There were in reality ten. But there was not a *Parliament proper* that year, no writs having been issued for the Commons. It was rather a council of Peers and Peeresses, especially of those holding lands in Ireland, who were summoned to consult with the King what should be done in that country, and what aid they would grant the King. "Anno 35 Edward III., null summoniciones but summons to council 11 Comitissæ summonitæ at mittend. sede dagnos ad. colloq." (Harl. MS., 6204).

"De consilio summonite pro Terras habentibus in

Hibernia 35 Edward III., Maria Comitissa Norfolk, Elianora Comitissa Ormond, Anna le Despencer, Pha. Comitissa de la Marche, Johanna Fitz Walter, Agnes Comitissa Pembroch, Maria de Sco Paulo Comitissa Pembroch, Margeria de Ros, Matilda Comitissa Oxon, Katherina, Com. Atholl, Nulla summonitii Parliamenti" (Harl., 778). Dugdale gives the same names ("Summons to Parliament," p. 263) as summoned by their faith and allegiance to send a deputy to consult with the King and his council at Westminster. "Consimiliæ Brevia diriguntur subscriptis, sub eadam Data, de essendo coram Rege and consulo suo ad dies subscriptos viz., Ad Quindenam Paschæ Mariæ Comitissa Norfolciæ, Alianora Comitissa de Ormond, Annæ le Despenser, Ad tres Septimanas Paschæ Philippæ Comitissæ de la March, Johannæ Fitz-Wauter, Agneti Comitissa Pembrochiæ, Mariæ de S. Paulo Comitissa Pembroc., Margeria de Roos, Matildæ Comitissæ Oxon, Katarinæ Comitissæ Atholl," 35 Edward III., claus in dorso m. 36. These because they had property in Ireland."

The proxies,* however, do not imply that the ladies themselves would not have been admitted had they chosen to appear, as the special summons of Margaret, Countess Marshall, in 1 Richard II., clearly proves. Men also were allowed to send proxies. "The Bishop of Bath and Wells being infirm and old is allowed to send a proxy to Parliament." "Ralph Botiller Miles, Lord

* Plowden notes on this, that the privilege of voting by proxy is a privilege of the House of Lords. ("Jura Anglorum," p. 384.)

of Sudeley, has the same permission" (6 Rot. Parl., app., ex Rot. Parl., 1 Edward IV., p. 1, m. [19] 227, a. b.).

The husband's succession to his wife's titles was in order to grant her a permanent and interested "proxy." In Dugdale's "Summons to Parliament," p. 576, there is "A catalogue of such noble persons as have had their summons to Parliament in right of their wives."

This proves:—

(1) That a man not entitled to be summoned in his own right could be summoned in his wife's right, but that in doing so he must take her name and title, whether higher or lower than his own: "George, son and heir to Thomas Stanley, Earl of Derby, having married Joane, the daughter and heir to John, Lord Strange of Knockin, had summons to the Parliament under the title of Lord Strange" (22 Edward IV., 1 Richard III., 3, 11, 12 Henry VII.).

(2) That a woman held her husband's titles and possessions till her death by "the courtesy of England," and could even transfer these while she was alive to another husband. "Ralphe de Monthermer, having married Joane of Acre, daughter of King Edward I. and widow of Gilbert de Clare, Earl of Gloucester and Hertford, possessing lands of great extent in her right, which belonged to these earldoms, had summons to Parliament from 28 Edward I. to 35 Edward I. by the title of Earl of Gloucester and Hertford. But after her death, which happened in the first year of King Edward the Second, he never had the title of Earl of Gloucester and Hert-

ford, and was summoned to Parliament as a Baron only from the second to the eighteenth of that King's reign" (Dugdale's "Summons to Parliament"). There are twenty other cases of nobles summoned in the name of their wives. This, therefore, may be taken to illustrate the representative power in Peers. At the period of Ela of Salisbury the heiress of the Albemarles had conferred her title on three husbands, by the second of whom, William de Fortibus, she had an heir.

"Isobel of Gloucester likewise had two Earls" (Bowle's "History of Lacock Abbey").

Margaret de Newburgh, Countess of Warwick, married John Marshall of the Pembroke family, and he became Earl of Warwick, *Jure Uxoris.* She re-married John de Plessetis, who also bore her title. Her cousin, William Mauduit, succeeded her, and then Isabel, his sister, who married William de Beauchamp, making him Earl of Warwick. Their daughter, Anne de Beauchamp, succeeded as Countess of Warwick. (Burke's "Extinct Peerages.")

Dugdale also mentions "the names of such noble persons whose titles are either the names of such heirs female, from whom they be descended, or the names of such places whence these heirs female assumed their titles of dignity: of whose summons to Parliament by these titles the general index will show the respective times." There are twenty-eight of them. The eldest sons of earls were sometimes summoned to Parliament by their father's second title in their father's lifetime, and these titles were often inherited from an ancestress.

That the right of Peeresses to be consulted in relation to aids or subsidies assessed on their property, was acknowledged, can be learned from an interesting document still preserved.

The Commons in 1404 voted a grant to the King (Rot. Parl., iii., 546). "La grante faite au Roy en Parlement. Vos pauvres Commons . . par assent des Seigneurs Spirituelx et Temporels . . grauntont à vous, en cest present parlement deux Quinzismes et deux Dismes pour estre levez des laie gentz, en manere accustume . . Et les Seigneurs Temporelx pur eux, et les *Dames Temporelx*, et toutz autres persones temporelx pour la depens suis dit grauntont . . . Et purtant que cestes subside soit grantez à vous . . lesqueux die soient executy ne mys en œuvre avant la dit Quinzisme de Seint Hiller q'alors ceste graunt entier soit voide et tenue pur null ne levable, ne paiable en null manere . . . Protestantz que ceste graunt en temps à venir ne soit pris en ensample de charger les ditz Seigneurs et Communes de Roialme . . sil ne soit par les voluntées des Seigneurs et Communes de vostre Roiaume et ces de nouvell graunt a faire en plein Parlement."

This, therefore, affirmed not only the rights of the Ladies Temporal to be considered at the time, but the grand principle of *non tallagio, non concedendo*, to all time for all classes.

CHAPTER V.

COUNTY WOMEN.

"Earls, Lords, and Ladies, Suitors at the County Courts."

THE Statutory history of Individual Privilege is not clear in very early times, before the Norman Customs and Saxon Laws coalesced. Magna Charta was wrested from John in 1215, and confirmed by succeeding monarchs. It is written in Latin, and the word Homo is applied throughout to both sexes. When it is intended to distinguish males from females other words are used. The most important clause in that Charter is, "To none will we sell, to none will we deny, to none will we delay the right of Justice." There were then no doubts in the mind of the people, no quibblings in the courts of law as to whether or not it extended to women. All early laws are couched in general terms, however they may have suffered from later legal and illegal glosses. Coke upon Littleton, Inst. II., 14, 17, 29, and 45, explains that "Counts and Barons" represent all other titles, whether held by men or women; that Liber Homo meant *freeman*

and freewoman. "Nullus liber homo. Albeit *homo* doth extend to both sexes, men and women, yet by Act of Parliament it is enacted and declared that this chapter should extend to Duchesses, Countesses, and Baronesses. Marchionesses and Viscountesses are omitted, but, notwithstanding, they are also comprehended within this chapter."

County women inherited freeholds under the same conditions as Noblewomen.

If an heiress married a man of an inferior family or a smaller property, she could, if she chose, raise him to her rank, and make him take her name. Thomas de Littleton, upon whose Digest of English laws Coke exercised his talents, received arms, name, and estate from his mother, "who, being of a noble spirit, *whilst it was in her power*, provided, by Westcote's assent, that her children should bear her name." In other words, the heiress of the Littletons married Westcote, but while she was yet a freewoman imposed conditions. (*See* "Life of Littleton" prefixed to his works.)

When married could act as femes soles.—Among "ancient deeds and charters, drawn up by landowners in the time of Edward III. and Richard II." (Harl. MS. 6187), there are many executed by women, many sealed by women alone, their husbands being alive, many sealed by women along with their husbands.

A grant by William Faber de St. Briarville and Sarra his wife is sealed by the name of Sarra Hathwey alone,

and another deed by her son is signed by William Faber, son and heir of Sarra Hathwey.

Robert de la Walter de Staunton and his wife Marjory combine in a deed, and both seals affixed. So Thomas Waryn and his wife Julia, daughter of Thomas Baroun, Richard de Pulton and Agnes his wife, and others.

They owed also military service either to their Overlord or to the King directly. We find this abundantly illustrated in Palgrave's "Parliamentary Writs," and in any of the Domestic Series of State Papers in the Public Record Office recording service assessed. All names are used in common. For instance, "Names of *gentlemen* furnishing light horses and lances, 1583: Bramber, Dorothy Lewknor, 2; Pevensey, Elizabeth Pankhurst, 1, etc.; Domina Gage, 2;* John Gage, 2; Elizabeth Geoffrey, 1" (Harl. MS., 703, f. 87).

There are many women returned in the "Rotuli Hundredorum," Ed. I., as holding under military tenures in capite. "Eve de Stopham held her estate by finding for the King one footman, a bow without a string, and an arrow without feathers" (Blount's "Tenures"). "Lady Custance de Pukelereston holds Pukelereston by finding one man and a horse, with a sack and an axe, at the summons of the King" ("Testa de Nevill," 252). The Manor of Gatton, known as the scene of contested elections in after years, was held by the service of a knight's fee and the payment of Castle guard to Dover Castle.

* These were "the two Gages" mentioned in connection with the Copleys of Gatton.

The "Testa de Nevill" compiled in the reign of Henry III. and Edward I., gives the list of many holding in capite and of Overlords by military service. [iii.]

They also paid and received Homage.—In the Harl. MS. (6187) many of the tenements are conveyed by women, on condition of Homage rendered and service given; as, for instance, in the cases of Sibilla de Bruneshope, widow; Johanna de Muchgross, daughter of Willian de Muchgross; Agnes de Bellecores; Agnes, daughter and heir of Henry de Munsterworth; Cecilia Blundell de Teynton.

Among the Records of Banham Marshall, Beckhall and Greyes, there is one transferring lands to a certain Dorothy Gawdy, 31st March, 1659. "At a court held by the Homage"—"to which said Dorothy here in full courte is delivered thereof seisin. To hold to her and to her heires by A Rodd att the will of the Lords, according to the custom of this Manor, by the rents and services therefore due and of right accustomed and she giveth to the Lords a fine. Her fealty is respited for a certain time." Five days later this Lady died, and a new transfer was made to her heirs male in same form.

They could present to Churches.—In 16 Edward II. Eleanor, wife of Thomas Multon of Egremond, petitions the King and Parliament against the Bishop for interfering with her appointment of a clerk, as she was endowed with the advowson of the Church of Natlugh in Ireland. Order that justice be done to the said Eleanor (Tower Rolls).

Matilda de Walda was patron by inheritance of Saint Michael's of Canterbury. (*See* "Rotuli Hundredorum," Edward I., vol. ii., 392.)

The Lady Copley presented to Gatton living in 1552.

The list, however, of ladies holding advowsons and gifts of churches, is so long, that more need not be noted, especially as this right is not denied to-day.

They could hold Motes.—We may find the local duties of County women illustrated in the "Rotuli Hundredorum," and other authorities already quoted.

"Benedicta, widow of Sir Thomas Uvedale, granted a lease to Thomas Brown of 2½ acres and foure *dayewarcs* of land . . . by the yearly rent of 2s. 6d., and suit at her court of Wadenhalle every three weeks" ("Surrey Archæological Collection," vol. iii., p. 82).

They could attend Motes.

They could be free Suitors to the County Courts, and there act as Pares or Judges.

Women combined with men to elect Knights of the Shire to defend in Parliament the rights of their property and themselves from unequal assessment of subsidy and undue exactions of the King.

In Sir Walter Raleigh's treatise on the Prerogative of Parliaments, he traces back the origin of the House of Commons to 18 Henry I. on rather slender bases. At the time of the struggle with John it was clearly perceived that irresponsible kings could not be trusted to observe all the clauses of Magna Charta, and general councils

were provided for. John promised to summon *all classes* to consult with him when it was necessary to assess aids and scutage. But John's word was not worth much.

The first *clear* Summons appears to be that of 38 Henry III. (1254), when a Writ was issued requiring the Sheriff of each County to "cause to come before the King's Council two good and discreet Knights of the Shire, whom the *men* of the County shall have chosen for this purpose in the stead of all and of each of them, to consider, along with Knights of other Shires, what aid they will grant the King."

In 49 Henry III. (1265), writs were issued for "two Knights of the Shire to be chosen by *the annual suitors at the County Courts*," and two Citizens from each Borough. Their expenses were to be paid by those who sent them.

The Statute passed in the Parliament of Marlebridge (52 Henry III.) by members elected in this manner, more clearly defined this method of election, and confirmed the more ancient Statutes regarding *the County Courts*. Hallam and Lewis trace their origin to the Anglo-Saxon Shiregemote, Folkmote, or Revemote, and prove that the Sheriffs and dignitaries possessed only directory and regulative powers; that the Freeholders, who were obliged to do "suit and service," were the Pares or Judges, as well as the Electors of the Knights of the Shire, and of the Sheriffs themselves.

Concerning this court, it had been provided (43 Henry III.), "that Archbishops, Bishops, Earls, Barons, or any religious Men or Women, should

not be forced to come thither unless their presence was especially required." Their goods could not be distrained for non-attendance. That this was intended as a Franchise of Privilege, not inducing a penalty of exclusion, is perfectly clear, not only in the reading of the Act itself, but in its effect upon later laws.

So Coke, (Inst. II., 119,) elucidating the laws of Marlebridge, made three years later, says, "Note. A woman may be a free Suitor to the Courts of the Lord, but though it be generally said that the free suitors be Judges in these courts, it is *intended of men and not of women.*"

This "priestly intention" sprang only from Coke's own mind. He cites no authority for his opinion, nor could he have found one. To have deprived a female "Suitor" of her right to express her opinion and thereby help to determine the questions brought before the Court, in the light of her own interests, inclinations, or opinions, would have taken away her prime *raison d'être.* Her second privilege was that of giving her voice, with other freeholders, towards the election of a knight, "in the stead of all and of each of them," to go to the King's parliament,* and defend her interests there. Upon the petition of the Commons that proclamation should be made of the day and place of the meeting of the County Court, it was decreed, "All they that be there present, as well *suitors* duly summoned, as *others*, shall attend to the election of the Knights of Parliament . . . And

* The first use of the word "Parliamentum" occurs in the Prologue to the Statutes of Westminster in 1 Edward I.

after they be chosen, the names of the persons so chosen shall be written in an *Indenture*,* under the *seales* of all them that did chuse them, and tacked to the said writ of Parliament" (7 Henry IV., c. xiii.). A certain limitation, therefore, of electors, must have been caused through the necessity of possessing seals. In 8 Henry VI. the suitors at the County Court were limited to those who had not less than a 40s. freehold. It was soon made clear that the House of Commons was only intended to represent those not eligible in person or in representation to the Upper House; so that the county elections became limited to county freeholders below the rank of Peers. But there is no question, at any time, of altering the Franchise from the general terms to others that would limit it to the masculine being. That women did frequent the courts in person is proved in Prynne's "Brevia Parliamentaria Rediviva" (p. 152, *et seq.*), where he refers to "sundry Earls, Lords and Ladies who were annual suitors to the County Courts of Yorkshire." That women recorded these votes, and sealed the indentures of the Knights elected, is also proved by Prynne. The two points that surprised Prynne were, that the earliest preserved indentures were *all* signed by the Nobility of the County, and by them alone, and also that they were all sealed by attorney, by Lords, or by Ladies alike, down to 7 Henry VI., after which they were signed by all Freeholders personally. He does not seem

* Prynne notes that only Cedules have been preserved of the returns of the knights before the Statute of 7 Henry IV., c. xiii.

to remember that these were the classes privileged by Act 43 Henry III., to absent themselves from the County Courts; and that acting by proxy was considered a privilege of the nobility. It might very well have been considered that Archbishops, Earls, Lords, and Ladies were "especially required" at the County Court to hear and decide on some important territorial dispute, and yet that they could decide on the merits of a candidate at home, and send their Attorneys to the County Court to seal for them there in the presence of the Sheriff. One such indenture (2 Henry V.) is signed by Robert Barry, the Attorney of Margaret, widow of Sir Henry Vavasour. In another return from the County of York, one Attorney signs for the Earl of Westmoreland, and another for the Countess, for the lands each held as freeholds in that neighbouring county.

Prynne also preserves an Indenture signed by the attorney of Lucia, the widowed Countess of Kent (13 Hen. IV.). This lady was an Italian, a Visconti, the daughter of the Duke of Milan, and her foreign extraction, or her failing fortunes at the time,* may have induced her to exercise her privilege as regards the Member of Parliament, while she preserved the dignity of her nobility by voting by Attorney.

I have not found any example of a lady "Knight of the Shire," but neither have I found the shadow of a *law* against their existence beyond that of the electors' choice,

* *See* Petitions to Parliament (Hen. IV.), Burke's "Extinct Peerages," "Inquisitions *Post-Mortem*." (Hen. V.)

or the ladies' convenience. Anne Clifford said that if her candidate did not come forward "she would stand herself." (Dr. Smith to Williamson, Jan. 1668. Dom. Ser. State Papers, Public Record Office.) But as women summoned to do military service were *allowed* to send a substitute, as women summoned to the County Courts were *allowed* to absent themselves, and *allowed* to send an Attorney, so were they allowed to send their knights to the House of Commons.

If women of the Middle Ages had but realised what their ancestresses did before them, "that they were receiving what they must hand down to their children neither tarnished nor depreciated, what future daughters-in-law may receive, and may so pass on to their grandchildren" (Tacitus Germ., c. viii.), the needs of litigation on this point might not have arisen later.

Could Nominate to Private Boroughs. — Certain Boroughs formerly held by military tenure seemed to have been included in those permitted to return burgesses to Parliament, though belonging to one owner. When women inherited the property and held the Borough, they returned their one or two members, as the custom might be, in their own name. "The members of many ancient Boroughs were often returned by the Lords, and sometimes by the Ladies of the Manors or Boroughs" (Plowden's "Jura Anglorum," p. 438). Many cases are doubtless lost among the piles of missing records. But two very illustrative examples have been preserved for us, just sufficient to clear away all doubts from the minds of

students of history that women sometimes exercised the privileges they possessed.

In a bundle of Returns for 14 and 18 Eliz., Brady has preserved, and Heywood, in his "County Elections," has quoted, that of Dame Dorothy Packington, the owner of the private Borough of Aylesbury. In days when military service might have been demanded of her, she would have sent her "substitute" to defend her sovereign; in days when subsidy service was expected of her, she sent a "substitute" to Parliament to defend her interests there, and she paid for both her military and civil representatives. "To all Christian people to whom this present writing shall come, I, Dame Dorothy Packington, widow, late wife of Sir John Packington, Knight, Lord and Owner of the Town of Aylesbury, sendeth greeting. Know ye me, the said Dame Dorothy Packington, to have shown, named, and appointed my trusty and well-beloved Thomas Lichfield and John Burden, Esquires, to be my burgesses of my said town of Aylesbury. And whatsoever the said Thomas and George, burgesses, shall do in the service of the Queen's highness in that present parliament to be holden at Westminster the 8th day of May next ensuing the date hereof, I, the same Dame Dorothy Packington, do ratify and approve to be my own act, as fully and wholly as if I were, or might be present myself." She signed their indentures, sealed them, paid "their wages" and their expenses in whole, as others did in part. That the return was held good is sufficient to prove its

legality.* There is not the shadow of grounds for a belief that she "acted as returning officer," as some have said who have not studied the case. Later on, when the population of Aylesbury increased, and the ambitions of Aylesbury extended, there was an appeal by the inhabitants for permission to share in the Returns.† But the objection to the monopoly of the Family-Return did not include an objection to the woman that exercised it.

Another memorable instance is preserved for us in the Journals of the House of Commons itself.

I have found out so many curious, hitherto unnoted details about it, that I thought it advisable fully to illustrate the conditions of the case, so that it may not again be mistranslated, as it has so often been. On March 25th, 1628, there was a contested election for the Borough of Gatton. There were *two* indentures returned, one by the inhabitants of the borough, and the other by Mr. Copley. Though he returned Sir Thomas Lake, and Mr. Jerome Weston, "it was held not good that he should have returned alone." The case was argued out before the Committee of privileges in the House of Commons, of which Glanvil, Hakewell, and Sir Edward Coke were members. Mr. Copley based his claim on returns made by Roger Copley, as the *sole inhabitant* in 33 Henry VIII.; and

* *See* List of Parliamentary Returns, vol. i., p. 487.

† A trial in Aylesbury because some inhabitants brought a case against the revising barrister for refusing their vote, saying that "refusing to take the plaintiffs' vote was an injury and damage." (Jacob's "Law Dictionary.")

by Mr. Copley in 1 and 2 Phil. and Mary, 2 and 3 Phil. and Mary. "On the other part, in 7 Edward VI., Mrs. Copley et omnes inhabitantes returned. In 28°, 43° Eliz. 1°, 18° Jac., the return was made by the inhabitants, and in all later parliaments Mr. Copley joined with the other inhabitants."

The Committee and the other members of the House decided that "Mrs. Copley and the other inhabitants" was the true and legal Precedent for the form of Return. And that is the last word Parliament has had to say upon a Woman-Elector. (*See Commons Journal* of date.) But the side-lights of the story are interesting. In the first place, the *Commons Journal* has a misprint of an "s" in two cases. Roger Copley died in 1550-1; and from the manuscript copies of the *Commons Journal* we may see that *Mrs.* Copley is entered as returning alone in 1 and 2 Philip and Mary, and 2 and 3 Philip and Mary. (*See* Lansdowne MS., 545.) Further, both the printed and the MS. copy are wrong about her title, as she was the Lady Elizabeth Copley, or "Elizabeth Copley Domina de Gatton." This mistake shows that her own *seal* was affixed to the indenture with her Christian name, to which the Committee added "Mrs." instead of "Lady." Further, she must also have returned in 4 and 5 Philip and Mary, and must have returned her son.* On the 5th March young Copley of Gatton was com-

* "Thomas Copley Armiger, Thomas Norton Armiger, Gatton." Names supplied from the Crown Office in place of original returns. (Parliamentary Returns, vol. i., p. 398.)

mitted to the sergeant for irreverent words spoken of Her Majesty, and on 7th March Parliament was prorogued till 5th November. (*Commons Journal.*) This receives further explanation in additional MS. 24, 278, collected by Sir Richard St. George Norroy:—"Sat., 5th March, 4 and 5 Philip and Mary. For that Mr. Copley, a member of this house, hath spoken irreverent words of the Queenes Majestie, concerning the Bill for confirmacion of pattents, saying that he feared the Queene might thereby give away the Crowne from the right inheritor, the house commanded, by Mr. Speaker, that Copley should absent himself until consultation more had thereof. And after consultation had and agreed to be a grievous fault, Copley was called in and required this House to consider his youth, and that if it be an offence it might be imputed to his young yeares. The House referred the offence by the Speaker to the Queene with a plea for mercy, and Mr. Copley committed to the custody of the Sergeant-at-arms. Monday, 7th March, Mr. Speaker declared that he had declared to the Queenes Majestie the matter touching Copley, wherein hir pleasure was that he should be examined whereof fresh matter did spring. Nevertheless, Her Majestie would well consider the request of the House in his favour. In the afternoon Parliament prorogued" (*Commons Journal*). "Elizabeth, the second wife and widow of Sir Roger Copley, daughter of Sir William Shelley, Justice of the Common Pleas, presented to the Church of Gatton in 1552, as did her son Thomas in 1562; but

after that time, the family, being Roman Catholics, it was vested in trustees, 1571" (Manning and Bray's "Surrey"). The troubles of the Copleys and Gatton arose from *recusancy*, not women's elections. Elizabeth died in 1560, "seized of Gatton," held of the Queen in fealty for 1d. rent, and 20s. castleguard to Dover Castle. (*See* "Inquisition *Post-Mortem*," 29 April, 2 Eliz.) It must, therefore, have been settled on herself. The daughter of Sir William Shelley would surely be well advised of her legal rights, and, perhaps, her association of the other inhabitants with herself in her election of 7 Edward VI., arose from an appreciation of the tendency of popular opinion in favour of an inhabitant suffrage, instead of a freeholding one.

In Harl. MS., 703, Burghley writes to the Sheriff of Surrey:—"Whereas there are to be returned by you against the Parliament two Burgesses for Gatton in that Countie of Surrey, which, *heretofore*, have been *nominated by Mr. Coplie*, for that there are no Burgesses in the Borough there to nominate them, for as much as by the death of the said Mr. Copley and minoritie of his sonne, the same which his lands are within the survey and rule of the Court of Wards, whereof I am her Majestie's chiefe officer, you shall, therefore, forbeare to make returne of anie for the saide towne, without direction first had from me therein, whereof I praie you not to faile" (St. James, 13th Nov., 1584). Sir Thomas died abroad, 1584, aged 49, leaving William, his son and heir. Apparently Francis Bacon and Thomas Buss-

hop had been nominated by Burghley; because the next letter preserved, dated 24th Nov., 1584, tells the Sheriff to appoint Edward Browne, Esq., in the place of Bacon, who had been returned for another borough. In 11th Sept., 1586, Walsingham instructs the Sheriff of Sussex to send up Mrs. Copley of Rossey to the charge of the Warden of the Fleet, and the two Gages, and they are to have no conference. Jan. 29th, 1595, Buckhurst writes to Sir Walter Covert and Harry Shelley, Esqr., to apprehend "the Lady Copley and certaine other daungerous persons remayning with her as it is enformed, where very dangerous practizes are in hande" (Harl. 703, f. 87).

"The Queen, by reason of —— Copley, Esq, going beyond sea and not returning according to Parliament, presented Ralph Rand, M.A., to the Church of Gatton, 8th Feb., 1598."

On 7th Feb., 1620, the House considered the return of Gatton in Surrey. One Smith, a burgess for that town, and a son of Mr. Copley appeared. Mr. Copley, lord of the town, a recusant convict, with six of his lessees, no freeholders, made their choice the Tuesday before; the freeholders made their choice, on the Wednesday, of Sir Thomas Gresham and Sir Thomas Bludder. The first return held void. Sir Henry Brittayne asked leave to speak; he said "the writ was directed Burgensibus, and delivered to Mr. Copley. The town was but of seven houses, all but one Copley's tenants. That the election by them good not being

freeholders. That all the freeholders, except one, dwelt out of the town, and only held of the manor in the town." "Sir Edward Coke spoke against Copley's return, and moved for a new election, *in case of danger from Copley*" (*Commons Journal*). (*See* also Lansd. MS., 545; Hakewell's "Report of the Gatton Case.")

This, therefore, makes the controversy comprehensible that, in 1628, was illustrated by the records.

Mr. William Copley was not inclined tamely to resign the ancient privilege of his family of sending up Burgesses for their own Borough; he attempted to do so again, in spite of the decision of 1620, and through the adverse decision in his case, Parliament affirmed, and Sir Edward Coke with it, the right of a woman to vote.

CHAPTER VI.

FREEWOMEN.

"Preserve your Loyalty, defend your Rights."
—*Anne Clifford's Sundial Motto.*

In days when the word "Free" had no doubtful signification, women could be "Free" in several different ways. They could be Freeholders in towns by inheritance or by purchase. They could be Free of "Companies," in some of them by patrimony, service, or payment; in others through being widows of Freemen only. In some cases a widow's "Freedom" was limited by the conditions of her husband's will, but in almost all of the Companies, at least, in London, *some* women could be Free. They could be Free in Boroughs, under the same conditions as men, by paying brotherhood money, and by sharing in the common duties of Burgesses, as "Watch and Ward," "Scot and Lot," and the service of the King; they could be "Free" as regards the Corporation, and they could be "Free" as regards voting for members of Parliament.

I have preferred to use the word "Freewomen" as more definite than any other. The "Widows and Spinsters" phrase of to-day does not carry back to old history. Under certain limited conditions married women could be "Free"; under certain other conditions they could be "Spinsters."

"The case of a wife trading alone. And where a woman coverte de Baron follows any craft within the city by herself apart, with which the husband in no way interferes, such woman shall be bound as a single woman as to all that concerns her craft. And if the husband and wife are impleaded in such case, the wife shall plead as a single woman in a Court of Record, and shall have her law and other advantages by way of plea just as a single woman." She has her duties and penalties as well as her privileges, can be imprisoned for debt, etc. (*See* "The Liber Albus of London," compiled 1419, translated by J. Riley, Book III., p. 39.)

(*See* also "Historical Manuscripts Commission," vol. x., appendix iv., p. 466, *et. seq.* Report on papers found in Town Hall, Chelmsford.) There, among several lists of women, wives, and mothers, are many designated "Spinsters." Among "presentments for neglecting to attend church" (23 Eliz.) were ten women—"Margareta Tirrell, spinster, alias dicta Margaretta Tirrell uxor Thomae Tirrell armigeri"; "Maria Lady Petre, spinster, alias dicta Maria Domina Petre uxor Johannis Petre de Westhornden prædicta Milites." Many others appear as "wife of" at the same time as "spinster." The writer of the Report believes that "spinster" in these cases was equivalent to "generosa," and notes that it is insisted on when women have married men of meaner descent. I myself am inclined to think that a Guild of women had arisen out of the

silk-spinning industries of Essex, and that the word "Spinster" implied membership of that Guild.

Members of Guilds.—In the old social and religious guilds which seem to have been established for good fellowship during life, for due burial, prayers and masses after death, and for charitable assistance of needy survivors, there was perfect equality between the sexes. Brotherhood money is exacted from "the sustren" as well as from the brethren. In 1388 (12 Richard II.) an order was given that all Guilds and Brotherhoods should give "returns of their foundation." Women appear as the Founders of some of these. The Guild of the Blessed Virgin Mary, Kingston-upon-Hull, was founded by 10 men and 12 women (p. 155). The Guild of Corpus Christi, Hull, founded in 1358, by 18 women and 25 men (p. 160, "Early English Gilds," J. Toulmin Smith). The Guild of the Holy Cross, Stratford-on-Avon, had half of its members women, as also the Guild of Our Lady, in the Parish of St. Margaret's, Westminster, whose original manuscripts I have read. Even when the guild was managed by priests, as in the Guild of Corpus Christi, York, women were among the members. In St. George's Guild, Norwich, men were charged 6s. 8d. and women only 3s. 4d. for brotherhood. These guilds had "Livery" of their own in some cases. They had a beneficial effect on society, moral good conduct being necessary to membership, and a generous rivalry in self-improvement a condition of distinction. They taught an equal moral standard for both sexes. Hence the

treatment of vicious men and vicious women was the same. (*See* "Liber Albus," p. 179, 180, etc.)

They also did many good works towards the public weal.

The Guild of the Holy Cross in Birmingham, to which belonged the well-disposed men and women of Birmingham and the neighbouring towns, had Letters Patent in 1392. The Report of its Condition in the reign of Edward VI. says, "It kept in good reparacions two great stone Bridges and divers foule and dangerous wayes, the charge whereof the town, of hitselfe ys not hable to manteign, so that the lacke thereof will be a great noysaunce to the Kinges Majesties subjects passing to and from the marches of Wales, and an utter ruyne to the same towne, being one of the largest and most profitable townes to the Kinges Highness in all the Shyre" (Toulmin Smith's "English Gilds," pp. 244-249).

These might have weathered the storms of the Reformation by giving up candles and masses, had not Henry seized their revenues and revoked their foundations.

The Trades Guilds in early days were also semi-religious in their character, and also admitted women as sisters.

William Herbert's "History of the Twelve Great Livery Companies" gives many details interesting to us. All the Charters of the Drapers' Company expressly admit Sisters with full rights; the wearing of the Livery, the power of taking apprentices, sitting at the election feasts,

making ordinances among themselves for better governance, etc. (vol. i., p. 422). So also did the Clothworkers.

So also the Brewers' Company. In 5 Henry V. there were 39 women on the Company's Livery paying full quarterage money. In 9 Henry V. there are entries in the books, of the purchase of cloth for the clothing of the Brethren and Sistern of the Fraternity of the Brewers' Craft. So also the Fishmongers (p. 59), the Weavers,* and other companies. "The office of Plumber of the Bridge granted to the Widow Foster, 1595." (Guildhall Records.)

The Clockmakers' Company, though only founded in 1632, had female apprentices sanctioned by the company so late as 1715, 1725, 1730, 1733, 1734, 1747.

Among the Memoranda of the Grocers' Company, 1345, we may note "each member of the fraternity shall bring his wife or his companion to the dinner." "And that all the wives that now are, and afterward shall become married to any of our Fraternitie; they shall be entered and esteemed as belonging to the Fraternitie *for ever* to assist them and treat them as one of us, and after the decease of her husband the widowe shall still come to the said election dinner, and shall pay 40d. *if she be able.* And if the said widow is married to some other, who is not of our Fraternitie, she shall not come to the said dinner so long as she be 'couverte de Baroun,' nor ought any of us to meddle with her in anything, nor interfere on account of the Fraternitie so long as she is 'couverte de Baroun'" (*see* Mr. Kingdon's translation of

* *See* "Liber Customarum," p. 544, etc.

the Books of the Grocers' Company, 1341-1463, printed in 1886). On a second widowhood she might return to the company. At a later date they did not seem to be so severe. One widow, interesting to me on other literary grounds, made her second and third husbands free of the company through the rights she gained from her first. Widows paid Brotherhood money, held Apprentices, traded and received all benefits of the Guild.

The Company of Stationers seems to have followed similar customs. Many women carried on their husband's business, and received apprentices, as Widow Herforde, Widow Alldee, Widow Vautrollier. (*See* Arber's reprint of "Stationer's Registers" and Ames' "Typographical Antiquities.")

In the "Journal of the House of Commons," vol. ii., p. 331, December 3rd, 1641, we find two entries, "Ordered that the Committee for printing do meet to-morrow at eight of the clock in the Inner Court of Wards, and the printing of the Book of Queries is referred to that Committee."

"Ordered that Elizabeth Purslow, who, as this House is informed, printed the pamphlet entitled 'Certain Queries of some Tender-Conscienced Christians,' be summoned to attend the Committee appointed to examine the business."

In Timperley's "Cyclopædia of Literary Typographical Anecdote" we find: In 1711 died Thomas James, a noted printer in London, according to Dunton, "something the better known for being husband to that She-State politician, Mrs. Eleanor James." This extra-

ordinary woman wrote two letters to printers, one to Masters, and one to Journeymen, the first beginning, "I have been in the element of printing above forty years," and ending, "I rest your sister, and soul's well-wisher, Eleanor James." Her husband, Thomas James, left his fine library to the use of the public, and the President and Fellows of Sion College were indebted to Mrs. James for giving them the preference. She also presented them with her own portrait, with that of her husband, and his grandfather, Thomas James, first librarian to Bodleian Library. "Her son, George James, who died in 1735, was City Printer. His widow carried on the business for some time, when the office was conferred on Henry Kent." (Timperley; *see* also Reading's "Catalogue of Sion College Library.")

Women could also have Guilds of their own.—[iv.] In 3 and 4 Edward IV., there was a "Petition from the Silkewomen and Throwsters of the Craft and occupation of Silkework within the cite of London, which be, and have been craftes of women within the same cite of tyme that noo mynde renneth to the contrarie, nowe more than a M" (*i.e.*, 1000 in number), praying protection against the introduction of foreign manufactured silk goods. (Parliamentary Rolls, 1463.) And various Acts for their protection are passed, down to 19 Henry VII., c. xxi.

There seems also to be somewhat of the nature of a Guild among the Midwives of London, who had a certain social standing and certain laws and conditions of office. Many of the Royal Midwives received annuities. One

appears in Rot. Parl. XIII., Ed. IV., Vol. VI., p. 93. Among the exclusions from the Act of Resumption we find, "Provided alwey that this Act extend not, nor in any wise be prejudiciall to Margery Cobbe, late the wyf of John Cobbe being midwyf to our best-beloved wyfe Elizabeth Queen of England, unto any graunte by us, by owre Letters Patentes of £40 by year, during the Life of the said Margery." Even in early times, their male rivals tried to limit the extent of their professional activities. Among the Petitions to Parliament is one from Physicians who pray that "no woman be allowed to intermeddle with the practice of Physic." I. Rot. Parl., 158.

The Rolls of the Hundreds make mention of women among the great Wool Merchants of London, "Widows of London who make great trade in Wool and other things, such as Isabella Buckerell and others." Vol. I., pp. 403-4.

They might be Free of the City of London.—The freedom of the city of London became vested in those that paid Scot and Lot, as women did. The Jews were not allowed to pay Scot and Lot, and were never "free of the city." "And the King willeth that they shall not, by reason of their Merchandize, be put to Scot or Lot, or in any taxes with the men of the cities or Boroughs where they abide; for that they are taxable to the King as his bondmen, and to none other but the King" (Statutes, vol. i., page 221). "That all Freemen shall make contribution unto taxes and taillage in the city" (Liber

Albus III., pt. i., 235). "For watch and ward. Let all such make contribution as shall be hostelers and housekeepers in each ward" (p. 102). "And deeds and indentures, and other writings under seal may be received; and cognizances and confessions of women as to the same recorded before the Mayor and one Alderman" (p. 16). "Where women in such cases (*i.e.*, of debts) are impleaded and wage their law," they make their law with men or women at their will (p. 37).

Waller *v.* Hanger. Moore's Cases, 832. Pasch. 9, Jac. I. Frances Hanger. "El plead que el fuit libera fœmina de London, and plead le Charter" that "the Freemen of London should pay no dues upon their wines." These points are important to remember in the light of a petition presented by the widows of London (17 Richard II.) to be freed from taxes and taillage made in the city without authority of Parliament; praying the King to remember that it had been granted them that no such tax would be imposed; and asking him to see that this present Parliament would prevent the Mayor and Sheriff of London from levying on them this new imposition not levied by Act of Parliament. (Rot. Parl., vol. iii., 325.) The Mayor and Aldermen present a counter petition saying that the tax was for restorations, and praying that the present Parliament should ordain that the widows may be contributors according to proportion of the aforesaid fine, for their tenements and rents in the city and suburbs according to right and reason, ancient custom and charters of the city, that those who *per commune* have advantage

of the restoration ought by right to be contributors in cost, etc. *(Ibid).*

That women were no indifferent and over-timid members of the community, we may see in the petition of the Mercers of London to the King against the oppressions of Nicholas Brember, Grocer and Mayor of London, 1386, 10 Richard II. :—

"Also we have be comaunded ofttyme up owre ligeance to unnedeful and unleweful loose doynges. And also to withdrawe us be the same comandement fro things nedeful and leeful, as was shewed when a company of gode women, there men dorst nought, travailled en barfote to owre lige Lorde to seeke grace of hym for trewe men as they supposed, for thanne were such proclamacions made that no man ne woman shold approche owre lige Lorde for sechynge of grace, etc." (Rot. Parl., vol. iii., p. 225).

They could be Free in other Boroughs.—The female burgesses of Tamworth are recorded in Domesday Book as having been free before the conquest, and as being still free in later times. If they took it upon them to trade as *femes soles*, they made themselves liable to all the common burdens of the "mercheta," over and above their proper borough duties of watch and ward.

The Ipswich Domesday Book gives more than one instance of a woman having "hominal rights," and as being liable to the "hominal duties" corresponding thereto. To any *feme sole* the Franchise and even the Guild was open on the same terms as to the men of the

place. There was no essoign of female burgesses whereby to decline attendance at the motes (30 Edward I.).

Amongst liberi homines, liberi homines tenentes, or liberi homines sub regia, in every English shire, the Domesday Book records the names of *Freewomen.* (*See* Chisholm Anstey's "Supposed Restraints.")

I have personally searched the records of Stratford-upon-Avon. There women could be burgesses. One entry, noted for another purpose, I may here quote: "At a Hall holden in the Gildehall, 9th September, 1573, Adrian Queeney and John Shakespeare being present, the town council received of Christian White for her sisterhood, 6s. 8d.; Robert Wright for his brotherhood, 6s. 8d."

York. "Women being free of the city, on marrying a man who is not free, forfeit their freedom. Persons are entitled to become free by birth, by apprenticeship, or by gift or grant. Every person who has served an apprenticeship for seven years under a binding by indentures for that period to a freeman or freewoman inhabiting and carrying on trade in the city is entitled to become free. The indentures may be assigned to another master or mistress being free. The privileges of freemen are extended to the partners of freemen and to their widows." ("Report of Municipal Corporation Committee, 1835," p. 1741.)

The customs of Doncaster seem somewhat similar. (*See* same report, p. 1497.)

The City of Chester followed the custom of London. (*See* "The Mayor's Book of Chester, 1597-8.")

Letter from Lord Burleigh to the officers of the Port of Chester, authorising them to enter without tax the Gascony wines of a city merchant's widow :—

"After my hartie commendacions, Whereas I understand that you have made scruple to take entrie of certeine Tonnes of Gascoigne wynes brought into that port in december laste, being the proper goodes of Ales Massy, wydowe, late wife of William Massy, merchant, of that cittie, deceased, as also of certeine other Tonnes of Gascoign wynes, brought in thither by William Massey, his sonne, late merchant and free citesin of that cittie, also deceased, whose administratrix the said Ales Massy is. For-as-much as I fynde by a graunte by privy seale, from hir Majestie, dated the 21st daye of Maye, in the ninth yere of hir raigne, that her pleasure is (for good consideracion in the said pryvye seale specified) That all merchants, inhabitants, and Free Citizens of that Cittie shal be freed and discharged from payment of any Imposte for such wynes as they bring into that port. And forasmuch as also I have receyved a Lettre from the Maior and Aldermen of that cittie, whereby they doe certifye unto me that all Freemen's wydowes of that cittie, during their wydowehood, by the Custome of the said Cittie, have used, and ought to have and enioie all such trades, Fredomes and Liberties as their husbandes used in their life tyme, which custome hath bene used and allowed of tyme out of mynde. Therefore, these are to will and require you to take entrie of all the aforesaid wynes of the said Wydow Massies as well those

that she hath as administratrix to Wm. Massey, as of hir owne proper wynes, without taking or demaundinge Impost for the same wynes. And this shal be your discharge in that behalf. From my house at Westminster, the xiiith of April, 1598.

"Your lovinge frende,

"W. BURGHLEY.

"To my loving frendes, ye Officers of ye Port of Chester."

"Recepta per nos viii. die Maii per manus Richardi Massy. THO. FLETCHER, Maior."*

In 1597, by the same books, some money was distributed to twenty poor people, having been free of the city twenty years at least; among these were five women.

In the Town of Winchester women could be free. In an old Customary of that town we may find "Every woman selling Bread in the High Street, not having the freedom, pays to the King 2s. 5d. a year, and to the City Clerk 1d., if she sells by the year, if less, in proportion. Every woman who brews for sale is to make good beer. No Brewer not free of the City (nul Brasceresse hors de Franchise) can brew within the City jurisdiction without compounding with the Bailiff." (*Archæological Journal*, vol. iv., 1852.)

In the Hall-book of the corporation of Leicester 1621:

"It is agreed by a generall consent that Wm. Hartshorne, husbandman, shall be made ffreeman of cor-

* Transcribed by Dr Furnival for his present work on Chester MSS.

poracon payinge such ffine as Mr. Maiour and the Chambleyns that now be shall assess. But he is not allowed any freedom or privilege by reason that his mother was a ffreewoman. Neither is it thought fit that any woman be hereafter made free of this corporacon." (*Notes and Queries*, vol. v., 5th series, p. 138.)

This note is important as showing the period of the change of tone and spirit.

Women could be on the Corporation.—In 1593, in the Archives of the Borough of Maidstone, Kent, appears, "That the 11th of September, 1593, Rose Cloke, single woman, (according to the order and constitutions of the town and parish of Maidstone aforesaid) was admitted to be one of the corporation and body politique of the same town and parish, from henceforth to enjoy the liberties and franchises of the same in every respect, as others the freemen of the said town and parish. And she was also then sworn accordingly, and for some reasonable causes and considerations then stated she was released from paying any fine, other than for her said oath, which she then paid accordingly" (*Notes and Queries*, vol. xii., 5th series, 318). The transcriber doubts the "legality" of Miss Rose Cloke's election. But it was not till a very long time after this date that any attempt was made to interfere with the liberty of the electors in choosing whom they would.

Queen Elizabeth is said to have reproached the women of Kent for not more fully exercising their privileges. It may have been in connection with this

illustration as to what their privileges might be. I had long meditated on the inner meaning of this reproach, before I came upon the elucidation. The freemen of Kent alone, in England, rose in arms against William the Conqueror, and would not lay them down until their ancient laws and customs were confirmed to them. The Custumal of Kent, therefore, based on the ancient Saxon laws, gave wider privilege to women than the Normanised laws of the rest of the country. Inheritance was equal and independent of sex, either in relations of descent or of marriage. The children all inherited equally, with a certain special tender consideration for the *youngest*, male or female. A widow had the half of her husband's property till she married again; a widower had the half of his wife's property, *while he remained single.* This equality in property necessarily gave the women of Kent fuller privilege. The recognition of the freedom of womanhood naturally made the men of Kent more free. "Of all the English shires, be ye surnamed the Free." (Drayton's "Poly-Olbion, 18.") [v.]

Yet some of the English shires did not lag far behind Kent. We may note "A customary or note of such customes as hath bin used, time out of mind in Aston and Coat in ye parish of Bampton in ye county of Oxon, and is att this time used and kept as appeareth by ye *sixteens* who hath hereunto, with ye consent of ye inhabitants of ye said Aston and Coat, sett their hands and seals the sixt September, in ye 35th yeare of Queen Elizabeth, Anno Dom. 1593." The

"customary" contains twelve articles regulating the election and duties of the sixteens, of which the first is: "The Custome is that upon our Lady-day Eve every yeere, all the *Inhabitants* of Aston and Coat shall meet at Aston Crosse about three of ye clock in ye afternoone, or one of everye House to understand who shall serve for ye sixteen for that year coming, and to choose other officers for ye same yeere. (2) Ye said sixteens being known, ye hundred tenants of ye same sixteens doe divide themselves some distance from ye Lords Tenants of ye said sixteens. And ye Hundreds Tenants do chuse one grasse Steward and one Water Hayward, and the Lords Tennants do choose two Grasse stewards and one Water Hayward, etc. This antient custome have ben confirmed in ye 35th yeare of Queen Elizabeth, 1593, by most of ye substantiall inhabitants of Aston and Coat, videl:

"Roger Medhop (gent).
The mark of Richard Stacy.
The mark of Eliz. Alder.
The mark of John Humphries.
The mark of Margery Young.
The mark of John Bricklande.
The mark of Will. Young.
The mark of Thos. Walter.
The mark of Will. Wagh.
The mark of John Newman.
The mark of Richard Thynne.
The mark of Robt. Carter,

The mark of Will. Haukes.
The mark of Ann Startupp.
The mark of Will. Tisbee.
The mark of John Pryor.
The mark of John Church."

(*Archæologia*, vol. xxxv., p. 472), which adds, "Similar customs were formerly practised in Sussex, and may be found in the Sussex Archæological Collections."

We find another case in "Grant's Treatise of the Law of Corporations," p. 6.

"In general women cannot be corporators, although in some hospitals they may be so, and there is one instance in the books of a Corporation consisting of Brethren and Sisters and invested with municipal powers to a certain extent, in The Pontenarii of Maidenhead (vid Rep. 30). (Palmer's "Cases," p. 77, 17 Jac., B.R.) Quo Warranto vers Corporation de Maydenhead in Berkshire, pur claymer de certaine Franchises and Liberties, un Market, chescun Lundie, Pickage, Stallage, Toll, etc." (Rot. Cor. 106.) They pleaded that the Bridge had been repaired by a Fraternitie, time out of mind, which was dissolved, and that the King by Letters Patent, on condition that they repaired the Bridge, granted them a market every Monday with all Liberties. . . . "Et le veritie fuit que Hen. 6 ad incorporate un Corporation la per nomen Gardianorum Fratrum et Sororum Pontenariorum, and concessit al eux and leur Successors quod ipsi and Successores sui haberent mercatum quolibet die lunae prout ante habuis-

sent simul cum Tolneto, Pickagio, Stallagio, etc." The opinion of three Judges were "que Toll fuit bien grant non obstant que le quantitie de Argent d'estre pay pur Toll pur chescun chose ne fuit expresse, Mes Montague Ch. Justice fuit cont. Mes que le Corporation enjoyera les Privileges non obstant cest action port." In page 626 of Grant's Treatise, we see "A Corporation Sole is a Body Politic having perpetual succession, and being constituted in a single person. . . . Corporations Sole are chiefly Ecclesiastical, one or two instances only of Lay Corporations Sole occurring in the Books. . . . The most important Corporation of this nature that claims attention is the King. . . . It is as a Body Corporate that the King is said to be immortal (Howell's "State Trials," 598). . . . A Queen Regnant is precisely and in the same way and to all intents a Corporation, and, indeed, there is nothing inconsistent with the principles of the old Law in this; it was everyday's experience before the Reformation to find female subjects as Corporations Sole, as Lady Abbesses, etc., but since that era it is superfluous to observe, females cannot be invested with this description of incorporation, though, as we have seen, they may be Corporators of Hospitals, Railways, and other trading bodies." (Note. *See* "Abbess of Brinham's Case." Yearbook, Ed. III., vol. xxiii.; 2 Rol. Abr. 348, l. 33; and Colt *v.* Bishop of Coventry, Hob. 148, 149.)

They could vote for Members of Parliament.—To their Municipal Rights were added, in the reign of Henry III, their Parliamentary Rights.

In 25 Edward II., De tallagio non concedendo, "It was there declared that no tallage or aid shall be levied by us, or by our heirs in the realm, without the goodwill and assent of . . . Knights, Burgesses, and other Freemen of the Land."

As women were Burgesses and Liberi Homines, the right was *given* to them as well as to men. Plowden ("Jura Anglorum," p. 438) remarks that "the Knights of the Shire represented landed property, the Burgesses the interests of manufacture or trade"; as women could be Traders they were recognised as having the rights of Traders.

The qualifications of Electors in Boroughs were very far from uniform or certain, as may have been noted in the Gatton case.

In Bath the Franchise was limited to the Mayor and Corporation. Sometimes it was limited to freeholders, sometimes to freeholders resident, at other times to inhabitants, in other cases to inhabitants paying Scot and Lot.

In London the Franchise was exercised by all paying Scot or Lot.

In Newcastle-on-Tyne, the Parliamentary Franchise devolved on a Freeman's widow, who could also carry on his business. (Brand's "History and Antiquities of Newcastle," vol. ii., p. 367.)

The ordinances of Worcester (6 Edward IV., 49)—"Also that every eleccion of citizens for to come to the Parliament, that they be chosen openly in the gelde Halle of such as ben dwellynge within the fraunches

and by the moste voice, accordinge to the lawe and to the statutes in such cases ordayned and not privily" ("Early English Gilds," J. Toulmin Smith).

In Shrewsbury, prior to the Reform Act, the right of returning members of Parliament for the Borough was vested exclusively in *Burgesses* paying Scot and Lot. ("Mun. Com.," p. 2014.)

Rhuddlan—"Here, as in the other contributory boroughs to Flint, the franchise is exercised by all resident inhabitants paying Scot and Lot." ("Mun. Com.," p. 2840.)

In the Reports of Controverted Elections, Luders mentions that of Lyme Regis, 1789. The dispute was whether non-resident burgesses could record their vote. Among the old burgess lists brought forward to elucidate the qualifications for electors, that of 29 Sept., 19 Eliz., was produced. The first three names on the list were of three women—"Burgenses sive liberi tenentes Elizabetha filiæ Thomæ Hyatt, Crispina Bowden Vidua, Alicia Toller Vidua," then follow the names of several men. To these were added in 21 Eliz. two names of "liberi burgenses jure uxoris." Later records show an increased number of women's names on the register of this borough.

The case of Holt *v.* Lyle or Coats *v.* Lisle in 14 James I., in discussing the right of a clergyman to vote, affirms as a side issue that "a *feme sole*, if she have a freehold, can vote for a Parliament man, but if she is married, her husband must vote for her." A limitation again ex-

pressed in Catherine *v.* Surrey, preserved in Hakewell's "Manuscript Cases."

As some have attempted to throw doubts on the authenticity of these cases, quoted as they were by the Lord Chief-Justice from the Bench in 1739, it may be well to note here that "William Hakewell was a great student of legal antiquities, and a Master of Precedents" ("Dictionary of National Biography"). He left parliamentary life in 1629, the year after he had, in the Committee of Parliamentary Privileges, helped to decide on the Gatton case. He was one of the six lawyers appointed to revise the Laws, and was thereafter created Master of Chancery. So one might be tempted to consider him rather an exceptionally good and trustworthy witness. He helped to decide other points in connection with the Franchise, which it is important for us to remember. He not only decided that inhabitant suffrage must supersede freeholding, that taxation gave the right to representation, but that, from its very nature, no desuetude could take away the right of voting. "On 9th April, 1614, it was pleaded, Sithence Durham last drawn in to charge to join in petition to the King that Durham may have writs for Knights and Burgesses. Said to be dumb men because no voices. Mr. Ashley said, They of Durham had held it a privilege not to be bound to attendance to Parliament. On 31st May was read An Act for Knights and Burgesses to have places in Parliament, for the County Palatine, City of Durham and the Borough of Castle Barnard." "On 14th March, 1620, members were

allowed for the Palatinate of Durham, which had hitherto sat free from taxation, and consequently sent no members to the House of Commons. It was allowed without discussion by the House," taxation and representation being constitutionally inseparable. (*See Commons Journal*, 14th March, 1620.)

"Regarding towns that had discontinued long sending of any burgesses, and yet were allowed." Hakewell had discovered this of "Millborne Port, County Somerset, and Webly, County Hereford, that, either from poverty or ignorance of their right, or neglect of the Sheriff, had ceased voting. After 321 years they elected again." "In 21 Jac. I. also, Amersham, Wendover, Great Marlowe, in Buckinghamshire, were in the same condition, but received writs for return upon application." (*See* Addit. MS., Brit. Mus. 8980.) Thus the doctrine that the right to the Franchise never lapses, and that *non-user* never deprives an Elector of this privilege, was affirmed by the Committee of Privileges in the Parliament of which Coke and Hakewell were members.

CHAPTER VII.

THE LONG EBB.

"Ye have made the law of none effect by your tradition."

The Errors of Sir Edward Coke.—In a historical treatise it is not necessary fully to analyse causes. Facts must be left to speak for themselves. It is a patent fact that, early in the seventeenth century, men's views regarding women became much altered, and the liberties of women thereby curtailed. But there is generally one voice that in expressing seems to lead the opinion of an age. The accepted voice of this period, on this subject, was not that of the "learned Selden" [vi.], but of the "legal Coke." He first pronounced an opinion on the disability of women, and, as every other *so-called authority* depends upon his, it is necessary to examine the grounds of his opinion first, as with him all his followers must stand or fall.

When he was speaking against the Procuratores Cleri having a voice in Parliament, it was urged on him that it was unjust that persons should have to be bound by laws which they had had no voice in making. To this he replied, "In many cases multitudes are bound by Acts of

Parliament which are not parties to the elections of knights, citizens or burgesses, as all they that have no freehold, or have freehold in ancient demesne; and *all women having freehold or no freehold*, and men within the age of one and twenty years" ("Fourth Institute," 5). He quotes no record, he suggests no authority, he adduces no precedent. He could not. Yet from this one *obiter dictum* of his, uttered in the heat of his discussion against clergymen, recorded in loose notes, and published without correction after his death, has arisen all consequent opinion, custom and *law* against the Woman's Franchise. So terrible can be the consequences of the by-utterances of a Judge when *careless, prejudiced, or wilfully ignorant.* That Coke could be all three it is easy to prove.

(1) In Prynne's "Introduction to the Animadversions on the Fourth Part of the Lawe of England," he says, "My ardent desires and studious endeavours to benefit the present age and posterity to my power by advancing learning . . . by discovering sundry misquotations, mistakes of records in our printed law books reports, especially in the Institute of that eminent pillar of the Common Law, Sir Edward Coke, published, with some disadvantage to him and his readers since his death, whose quotations (through too much credulity and supineness) are generally received, relied on, by a mere implicit faith, as infallible Oracles, without the least examination of their originals."

Male credulity in regard to Coke has been the cause of so much direct and indirect suffering to women that it is not surprising that they now attempt to get behind "the

Oracle," and question the Spirit itself of the English Constitution. Many other writers besides Prynne refer to Coke's want of care. "In 1615 the King told him to take into consideration and review his Book of Reports; wherein, as His Majesty is informed, be many extravagant and exorbitant opinions set down and published for positive and good law." (Chalmers' Biog. Dict.) "The Institutes published in his lifetime were very incorrect. The 4th part not being published till after his death, there are many and greater inaccuracies in it." One example in the contested passage may be noted. He says that those who had no freehold had no vote. He did not die until 1634, and the notes for the "Fourth Institute" were the last work of his life. But Granville's "Reports" prove that by the Parliaments of 1621 and 1628 the Franchise was declared to be vested in *inhabitant householders whether freeholders or not*, so he was incorrect as to that statement at least.

(2) That, through prejudice, he could be blinded to Justice can be seen in that picture preserved by his Biographers of his hounding Sir Walter Raleigh to his death by virulent unjudicial denunciations; or in that other when he and his followers made a riot with swords and staves in seizing his daughter from the home in which his wife (formerly Lady Hatton) had placed her. The King's Council severely reprimanded him for his illegal action then. (*See* "The Letter of the Council to Sir Thomas Lake regarding the Proceedings of Sir Edward Coke at Oatlands," "Camden Miscell.," vol. v.)

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The petition of Sir Francis Michell to the House of Commons, 23rd February, 1620, contains trenchant criticisms on Coke's conduct as partial and passionate. Though they may be somewhat discounted by the writer's position, they must have had some basis of truth. Michell said that when summoned before the Bar, Sir Edward Coke prejudiced his cause by saying aloud, "When I was Chief-Justice, I knew Sir Francis Michell; he is a *tainted man*," which saying discouraged his friends from speaking on his behalf. He repeats elsewhere that Coke was wont "to make invectives by the hourglass"; and indeed adds many other more serious charges. Michell was put out, as was the custom, when his case was being discussed. In his absence, he was condemned to go to the Tower, and on being re-admitted, thought he was to be allowed to defend himself as was the custom, and "asked leave to speak for himself, which Sir Edward Coke *hastened to refuse*" (Sir Simon d'Ewes' Papers, Harl. MSS., 158, f. 224). "His rancour, descending to Brutality was infamous" (Dict. Nat. Biog.). Sir Francis Bacon writes to him, "As your pleadings were wont to insult our misery and inveigh literally against the person, so are you still careless in this point to praise or dispraise upon slight grounds and that suddenly, so that your reproofs or commendations are for the most part neglected and contemned, when the censure of a Judge coming slow but sure should be a brand to the guilty and a crown to the virtuous. . . . You make the laws too much lean to your opinion, whereby you show yourself

to be a legal tyrant" (Foss's "Lives of the Judges"). James I. is known to have called him "the fittest engine for a tyrant ever was in England."

He was an only son with seven sisters, which position probably made him overvalue his own sex. His well-known matrimonial disputes probably helped to increase his prejudice against the other sex.

(3) That he could be *wilfully ignorant* there is abundant ground to believe. He married again five months after his first wife's death, without Banns or Licence, and to escape Excommunication, he pleaded Ignorance of the Law!! "Not only does he interpolate, but he is often inaccurate; sometimes, as in Gage's case, he gives a wrong account of the decision, and still more often the authorities he cites do not bear out his propositions of law. This is a fault common to his Reports and his Institutes alike, and it has had very serious consequences upon English Law" (Dict. Nat. Biog.). Holt *v.* Lyle, and Catherine *v.* Surrey had been decided when he was Attorney General. These affirmed that "a *feme sole* could vote for a Parliament man." The Gatton case had been decided in a Parliament, and by a Committee of which he was a member; and whether he had concurred in it or not, he cannot but have been aware that other members of Parliament, even in his day, allowed the woman's privilege.

Others have accused him of suppressing and falsifying legal documents. (*See* Chisholm Anstey's "Supposed Constitutional Restraints.") Chief Justice Best from

the Bench said, "I am afraid that we should get rid of a good deal of what is considered law in Westminster Hall if what Lord Coke says *without authority* is not law." 2 Bing, 296.

One other case which afterwards told heavily upon women we may note. "Coke artfully inserted in the marriage settlement of his fourth son John, with the daughter and heiress of Anthony Wheatley, a clause of reversion to *his own heirs* to the exclusion of heirs female, which was not discovered until 1671, when John having died, leaving seven daughters, their mother's paternal inheritance passed away from them to their uncle Robert, Coke's fifth son."

"His legal propositions may often be unsound in substance, but in his mode of stating what he believes or wishes to be law he often reaches the perfection of form" (Dict. Nat. Biography). This "*form*" may be sufficient to satisfy legal technicalities, but I think I have brought forward enough to show that intelligent women have reason to object to him as a "tainted" authority. [vii.]

Coke tells us in his "Fourth Institute," what properties a Parliament man should have. "He should have three properties of the elephant; first, that he hath no gall; second, that he is inflexible and cannot bow; third, that he is of a most ripe and perfect memory. First to be without gall, that is without malice, rancour, heat and envy." We have shown that Coke was deficient in the first quality prescribed by himself for just judgment. His abject submission to the Archbishop after his Breach of the Canon Law, shows that he could bow very low

to escape the consequences of his wrongdoing; his grovelling in the dust before James, when he had roused the King to wrath, shows that he could do the same when he thought he was right, "from which we may learn that he was, as such men always are, as dejected and fawning in adversity as he was insolent and overbearing in prosperity" (Chalmers' "Biography"). We must now prove that he was deficient in the third quality also. His memory was imperfect. He forgot one Statute when he was criticising another; he forgot what he had written in the "Second Institute," when he was preparing his manuscript for the Fourth. It is only by self-contradiction that he can hold the opinion now under discussion. From his own works we must judge him on this count (Coke *v.* Coke). In the "Fourth Institute," 5, he classifies women with minors. In the "Second Institute," c. iii., 96, his authorised and corrected work, he says on the contrary, "Seeing that a *feme sole* that cannot perform knight's service may serve by deputy, it may be demanded wherefore an heir male being within the age of twenty-one years may not likewise serve by deputy. To this it is answered, that in cases of minoritie all is one to both sexes, *viz.*, if the heire male be at the death of the ancestor under the age of one and twenty years, or the heire female under the age of fourteen, they can make no deputy, but the Lord will have wardship. Therefore, Littleton is here to be understood of a *feme sole* of full age and seized of land, holden by knight's

service,* either by purchase or descent." One would have thought this clear enough for a legal mind to follow. Women do not, therefore, come into the same class as minors in regard to their appointing deputies. But they do come into the class of Electors. ("Second Institute," 119.) "A woman may be a free suitor to the Courts of the Lord, and though it be generally said that the free Suitors be Judges [viii.] in these courts, this is intended of men and not of women."

We have already noted the illegal character of this opinion; but we repeat it here intentionally. Coke does not see that in avoiding one of the horns of a dilemma he throws himself on the other. If "women could be suitors," and were "not intended to be judges" or pares, the only other duty left them as suitors, would be "to elect their knights of the shire!"

The study of the original statutes supports the freedom of women as to both duties, as well as the fact of their having exercised that freedom. In Howell's "State Trials," 19 (Entinck *v.* Carrington, 6 George III.), there is a question asked and answered, worthy of repetition here—"Can the judges extrajudicially make a thing law to bind the Kingdom by a declaration that such is their opinion? I say no. It is a matter of impeachment for any judge to affirm it. There must be an

* In discussing the "Parliament of Marlebridge" (52 Henry III., chap. vi., p. 3) he says: "Albeit the heir be not *primogenitus*, but an heir female, or male lineal or collateral, yet everyone of them be within the same mischief."

antecedent principle or authority from whence this opinion may be fairly collected, otherwise the opinion is null, and nothing but ignorance can excuse the judge that subscribed it." That women had to submit then is no reason that they should submit now, as the same case explains—"It would be strange doctrine to assert that all the people of this land were bound to acknowledge that as universal law which a few had been afraid to dispute."

A believer in Coke's views and methods of perpetuating them was Sir Simon d'Ewes, High Sheriff of Suffolk. At the elections of 1640, Oct. 19th and 22nd, Sir Roger North and his Royalist friends had charged him with partiality towards the Puritan candidates. He cleared himself eagerly and then added, "It is true that by the ignorance of some of the Clarkes at the other two tables, the **oaths of some single women that were freeholders** were taken without the knowledge of the said High Sheriff, who as soone as he had notice thereof instantly sent to forbidd the same, conceiving it a matter verie unworthie of any gentleman, and most dishonorable in such an election, to make use of their voices, *although in law they might have been allowed.* Nor did the High Sheriff allow of the said votes, upon his numbering of the said Poll, but with the allowance and consent of the said two Knights themselves, discount them and cast them out" (Sir Simon d'Ewes' Papers; Harl. MS., 158). Thus in a second illustrative case, personal opinion and prejudice were allowed to counteract law and privilege.

And the law-abiding women yielded to what they were told was law, and, being kept in ignorance, they knew no better.

But in the very next year women showed that they took a strong interest in public affairs.

In vol. ii., p. 1673, Parliamentary History, is preserved the Petition to the Commons for Redress of Grievances, Feb. 4th, 1641. On the last day of sitting many women had been observed to crowd much about the door of the Commons, and Sergeant-Major Skippon applied to the House to know what to do with them, they telling him that where there was one now there would be 500 next day. The House bade him speak them fair.

Next day they presented their petition (printed by John Wright at King's Head in Old Bailey).

"To the Honourable Knights, Citizens, and Burgesses of the House of Commons assembled in Parliament, the Humble Petition of the Gentlewomen, Tradesmen's Wives, and many others of the Female Sex, all inhabitants of London and the Suburbs thereof, with the lowest submission showing, etc."

They acknowledge the care of the House in the affairs of State. They have cheerfully joined in petitions which have been exhibited "in behalf of the purity of religion and the liberty of our husband's persons and estates." "We counting ourselves to have an interest in the common privileges with them."

"It may be thought strange and unbeseeming to our

sex to show ourselves by way of petition to this Honourable Assembly. But the matter being rightly considered of . . . it will be found a duty commanded and required. (1) Because Christ hath purchased us at as dear a rate as he hath done men, and therefore requireth like obedience for the same mercy as men. (2) Because in the free enjoying of Christ in His own laws, and a flourishing estate of the Church and Commonwealth consisteth the happiness of women as well as of men. (3) Because women are sharers in the common calamities that accompany both Church and Commonwealth, when oppression is exercised over the Church or Kingdom wherein they live; and unlimited power given to the prelates to exercise authority over the consciences of women as well as men: witness Newgate and Smithfield, and other places of persecution, wherein women, as well as men, have felt the smart of their fury," etc.

"The petition was presented by Mrs. Anne Stagg, a gentlewoman and brewer's wife, and many others with her of like rank and quality. Mr. Pym came to the Common's door, addressed the women and told them that their petition had been thankfully accepted and would be carefully considered."

Coke's papers had been seized by the King at his death in 1634, but on the 12th May, 1641, the House of Commons ordered Coke's heir to print them, and thus his views on this point were perpetuated.

On the 13th February, 1620, Coke had committed the House to extraordinary doctrine in another relation to wo-

men. Among Mr. Lovell's witnesses was a lady, Mrs. Newdigate, "the House calling to have them called in. Sir Edward Coke out of St. Barnard said, A woman ought not to speak in the congregation. Examination hereof committed to a committee" (*Commons Journal*). It is strange that Sir Edward Coke should have gone so far afield as St. Barnard when St. Paul might have come in as conveniently. Had he read the gospels as carefully as he had read St. Barnard, he would have seen that one of the first two preachers of Christ was Anna the prophetess, who spake of Him in the temple to all them that looked for redemption in Jerusalem (Luke ii. 36), and that it was through women that Christ sent the first message to the Apostles and Disciples, that became the watchword of early Christianity, "Christ is arisen" (Matthew xxviii., Luke xxiv., John xx.). Coke's precedent on this point was reversed in his own century.

On the 17th November, 1666, "Some debate arising whether Mrs. Bodville, mother of Mrs. Roberts, should be admitted as witness, the matter being debated in the House, the question being put whether Mrs. Bodville be admitted, it was resolved in the affirmative, and Mrs. Bodville, with several other witnesses was examined" (*Commons Journal*).

His utterance on the Women's Franchise has coloured the minds of willing disciples until to-day. In Add. MS. 25, 271, Hakewell on impositions, says, "To make a man judge in his own cause and especiallie ye mightie over ye weake, and that in pointe of profitt to him that judgeth,

were to leave a way open to oppression and bondage." So women proved. There is no doubt that Puritanism on the one hand, and the frivolity of the fashions of the Restoration on the other, tended to make women content with their narrowed political privileges, and restricted educational opportunities. Only among the Society of Friends, commonly called Quakers, did women retain their natural place. Though there were some brilliant exceptions, the majority of women, by the procrustean methods of treatment in vogue were reduced to the state of incompetency that society came to believe was natural to them. "It was unwomanly for women to think and act for themselves." "Women had no concern in public affairs." "Men knew much better than women did what was good for them," were proverbs.

By losing one privilege they lost others. New laws were made prejudicial to their interests, and old laws retranslated in a new and narrow spirit. Precedent gained power to override statute; the notions of justice between the sexes became warped and distorted.

The laws of inheritance were altered, the rights of women in their property further ignored. Sophistical Labour Creeds were introduced to support masculine property privilege. Work was ignoble for *ladies*, except when done without remuneration; domestic work was not cognisable in coin of the realm, therefore women were said to be *supported* by their male relatives, though they might labour ten times as much as they. It was natural to educate them little, so that they should not

know; it was natural to take privileges from those who knew not what they lost.

Protesting Women.—But the Suppression of the Sex did not go on without various Protests on the part of women during the 200 years of this Backdraw in the tide of Civilisation. We cannot spare time for every detail; but three illustrative women must be noted—the first born in the 16th Century, protesting against the infringement of the Inheritance Laws in relation to women; the second born in the 17th Century, against the withdrawal of their educational advantages; the third born in the 18th Century, against their social, civil and political degradation.

Anne Clifford, born in 1590, was the only daughter of George, Earl of Cumberland, and of his good wife, Margaret Russel. She and her two noble sisters, Elizabeth, Countess of Bath, and Anne, Countess of Warwick, were distinguished for family affection, and all other womanly virtues. The Countess of Warwick was Elizabeth's favourite Lady-in-Waiting. Anne was much with this aunt in her youth, was a favourite of Queen Elizabeth, and was destined for her court. Her father refused to allow her, like other noble ladies of her time, to learn ancient and modern languages, so she made the most of the opportunities to be found in her own. "Her instructor in her younger years was the learned Mr. Daniel, the Historiographer and Poet. She was much interested in searching out old documents about her ancestors and very jealous of preserving her rights." (*See* in Nicholson

and Burn's "History of Cumberland and Westmoreland, the Autobiography of Mr. Sedgwick, who was her Secretary.") She was well prepared by her beloved mother and respected tutor for the exigencies of her future life. The Queen died in 1602-3, and her father in 1605. A woman, being considered of age at 14, she chose her mother as her guardian, who initiated the proceedings against her brother-in-law, the new Earl of Cumberland, which lasted until his death. The Earldom of Cumberland had been entailed in Heirs Male, but the secondary Titles, the Baronies of Clifford, Westmoreland, and Vescy, with all the Lands and Castles in Westmoreland belonging to them, were entailed in the Heir General. Her uncle, however, took possession, and favoured by the King, the power of wealth, and Sex Bias among those in power, he was able to hold them against her, in spite of her private and public petitions. His son, Henry, was summoned to Parliament by the title of Lord Clifford, a right which should have been hers, as she bitterly complained. Meanwhile, in 1609, she married Richard, Earl of Dorset. "On 25th July, 1610, my cousin, Henry, married Lady Francis Cecil, daughter to Robert, Earl Salisbury, which marriage was purposely made that by that power and greatness of his the lands of mine inheritance might be worsted and kept by strong hand from me" (Harl. MS., 6177, Anne Clifford's Diary). 16th July, 1615, "the great trial for my lands in Craven." Her husband agreed with the Earl of Cumberland to leave it to the King's arbitration, which

she would never agree to, standing upon her rights. In 1617 she was brought before King James in Whitehall to give her consent to the arbitration, "which I utterly refused, and was thereby afterwards brought to many and great troubles." Her uncle offered £20,000 as a compromise for the Westmoreland estates, which she would not hear of, but which her prodigal husband urged her to accept. Indeed, he attempted to strain his marital rights, and backed by the King, signed the agreement with her uncle, which she refused to acknowledge, and defeated the plans of the trio by her firmness. For she was a true descendant of the old stock of women, and wished "to live and die with the feeling that she is receiving what she must hand down to her children neither tarnished nor depreciated, what future daughters-in-law may receive, and so pass on to her grand children" (Tac. Germ. c. 19). She was determined to hold by her rightful inheritance. Her husband died on 28th March, 1624, and the contest went on with renewed vigour.

In the Domestic Series "State Papers," vol. cxxvi. 7, 1628, there is preserved "Reasons to prove that by the Common Law dignities conferred by Writ of Summons to Parliament descend to females, where there is a sole heir, and not co-heirs; being the reasons alleged for Mary, Lady Fane, in her suit for the Barony of Abergavenny in 1587, with other reasons alleged to show that such dignities by custom and reason descend to heirs female, produced on behalf of Anne claiming to be Lady Clifford."

Also in same series, April, 1628, there is "The Petition of Anne, Countess Dowager, late wife of Richard, Earl of Dorset, deceased, and daughter and sole heir of George, Earl of Cumberland, Lord Clifford, Westmoreland and Vescy, to the King. On the death of her father, the titles of Clifford, Westmoreland and Vescy descended to the petitioner, yet Francis, Earl of Cumberland, has published that the name of Lord Clifford and that of Lord Vescy pertain to him; and Henry Clifford, Chivaler, was summoned to this present Parliament, and styles himself Lord Clifford . . . prays the King to admit her claim to the dignities of Clifford, Westmoreland and Vescy, and to order the Earl of Cumberland and Henry, his son, to forbear to style themselves by these names."

In 1630 she married Philip, Earl of Montgomery, who shortly afterwards became the Earl of Pembroke by the death of his brother, and she again claimed her inheritance, still, however, in vain. In 1641 died her uncle, leaving one son, Henry, and one daughter, Elizabeth, married to the Earl of Cork. Two years later her cousin Henry died without heir male, and without further dispute, Anne stepped into her inheritance, thereby proving her original right. She had not sold it! "1644. So by the death of this cousin German of mine, Henry. Clifford Earl of Cumberland, without heirs male, ye lands of mine inheritance in Craven and Westmoreland reverted unto me without question or controversie after y^{t} his father Francis Earl of Cumberland and this Earl Henry his son

had unjustly detained from me the antient lands in Craven from ye death of my father and ye lands in Westmoreland from ye death of my mother until this time, yet had I little or no profit from ye estate for some years after by reason of ye civil wars." On the death of her second husband in 1649, she retired to the north, and began to fortify her castles. The parliamentary forces demolished them, but she said that as often as Cromwell pulled them down she would build them up again. After a time, admiring her spirit, the Protector gave orders she should not be molested. She was not even yet free from litigation, as at first she had troubles with her tenants. In every case, however, through knowledge, experience, and firmness she finally triumphed. A cloth-worker having bought a property held under her by the yearly rent of one hen, he refused to acknowledge her as his Seigneuress by paying that small rent. But she sued him successfully, and though she spent £200, she secured that hen, and the right of which it was the symbol.

She asserted all the privileges connected with her inheritance. In her Diary she says, "As the King came out of Scotland, when he lay at Yorke, there was a striffe between my father and my Lord Burleighe who was then President who should carie the sword; but it was adjudged on my father's side, because it was his office by inheritance, and so is lineally descended upon me." She became High Sheriff of Westmoreland also by right of her inheritance, and exercised its duties in person for a time. "The 29th December, 1651, did I sign and seal

a patent to Mr. Thomas Gabetis to be my Deputy Sheriff of ye County of Westmoreland."

Looking back on her life in the quiet of her northern home she said, "I must confess, with inexpressible thankfulness that I was born a happy creature in mind, body, and fortune, and that those two Lords of mine to whom I was afterwards by the Divine providence married, were in their several kinds worthy noblemen as any were in this Kingdom. Yet was it my misfortune to have contradictions and crosses with them both, with my first Lord about the desire he had to make me sell my rights in ye lands of mine inheritance for money, which I never did nor never would consent unto, insomuch as this matter was the cause of a long contention betwixt us, as also for his profuseness in consuming his estate." Her dispute with her second husband arose because she would not compel her daughter by her first husband, against the girl's desire, to marry his son by his first wife. The consequence of these two disputes, in both of which she was in the right, was that "the marble halls of Knoll and the gilded towers of Wilton, were often to me the Bowers of secret anguish." She was not what has been called a man's woman, but she was essentially a woman's woman. All good women were her friends, her cousin the Countess of Cork, daughter of her usurping uncle; her sister-in-law the Countess of Dorset, wife of her brother-in-law, whom she considered her greatest enemy. Though King James was against her, Queen Anne was her warm friend. She had no children by her second husband; and

her two sons by Earl Dorset died young. She had great consolation in the affection first of her mother, then of her two daughters, and also of her grandchildren. It was in connection with one of these that an important incident occurred, necessary to be fully explained here.

I have been allowed to utilise some critical points communicated by me to the *Athenæum*, No. 3475, p. 709, June 2, 1894.

In an article on "Letter-writing," published in *The World*, April 5th, 1753, Sir Horace Walpole quotes the famous and often repeated letter by Anne Clifford, Dowager-Countess of Pembroke, to the Secretary of State, who wanted her to nominate his follower for Appleby:—

"I have been neglected by a Court, I have been bullied by a usurper, but I will not be dictated to by a subject. Your man sha'n't stand.

"ANNE DORSET, Pembroke and Montgomery."

Lodge and other writers doubt its genuineness. The author of the "Dictionary of National Biography" gives as reasons for doubting it, that Sir Joseph Williamson, to whom it was supposed to be addressed, was not made Secretary of State until 1674; that Anne died in 1675, and that there was no election between these dates; also, that it was not in the style of her correspondence, and the signature was unusual, because she always signed her titles in the order of creation—Pembroke, Dorset, and Montgomery—and not in the order of her two marriages. None of the critics, however, seem to have followed out the correspondence in the Domestic Series of "State

Papers" at the Public Record Office, which, though it does not include the contested letter, yet illustrates it in a remarkable manner.

The Parliament elected in 1661, 13 Charles II., has been called "The Long or Pensionary Parliament," lasting till 1678. (*See* "Parl. Returns," vol. lxii., part i., p. 530.) John Lowther, Esq. of Hackthrop, and John Dalston, Esq. of Accornbank, were Burgesses for Appleby. John Lowther's death necessitated a new election, and in January, 1667-8, there was great excitement in and about Appleby. From Anne's position as High Sheriff of the County, she had the right to nominate a Candidate; from her great goodness and bounty to the place, the Corporation were willing to gratify her by electing whom she would. She determined to have one of her grandsons the Tuftons, sons of her daughter, Countess Thanet, four of whom were over 21, and in possession occupation. Failing them, she meant to have her kinsman, Anthony Lowther. But Joseph Williamson, Secretary to Lord Arlington, then Secretary of State, had set his heart on that seat, and by all means in his power, open and underhand, attempted to secure it. He was a native of those parts, and had friends and relations there, who all bestirred themselves in his favour. Everybody "plied the Countess," Williamson himself, his brother and friends, the neighbouring gentry, the Justices of the Peace, the Bishop of Winchester, Lord Arlington himself. Her replies at first were very kindly, but they gradually became more and more "definite."

Anne's first letter, explaining how her interest was engaged, dated Jan. 16th, 1667-8, was addressed to "Mr. Secretary Williamson at Whitehall," showing that there is no weight in the argument as to Williamson's appointment not taking place till 1674, as being Under-Secretary, he could be addressed so. Further, it is evident that the contested letter was not addressed to Williamson, but to Lord Arlington, about Williamson, though it may certainly have been re-addressed, and sent to him later, and may have been found among his papers.

To Lord Arlington on Jan. 17th, she writes, "Mr. Williamson, being of so eminent an ingenuity, cannot miss a Burgess-ship elsewhere." On Jan. 25th, Arlington writes again to her on behalf of his Secretary. On Jan. 29th, George Williamson writes to his brother: "Unless the three Tuftons be taken off by Lady Thanet's means, [redacted]possible for any man to oppose. . . . Dr. Smith [redacted]aking off of the old Lady, but if done, we shall [redacted] Feb. 4th, Dan Fleming writes to Williamson [redacted]ing the Lady Pembroke: "If you cannot ac[redacted]this, you should stay the Writ as long as you [redacted] you have a good account of your interest in [redacted]by." The same day Dr. Smith wrote to Williamson telling him of his friend's work: "The success of it will be seen by her answer to Lord Arlington, whereof she showed me a copy. I cannot see how it is possible to do any good unless her grandchildren be taken off." George Williamson writes same date to his brother, that Lord Arlington had been urging Thomas Tufton to with-

draw. "Neither Arlington nor the Bishop make any impression on the wilful Countess." On Feb. 6th, Lord Arlington writes again, to whom Anne replies: "It was myself and neither my daughter of Thanet, nor any of my children, that made me attempt making one of her sons a Burgess for Appleby." "If it should happen otherwise, I will submit with patience, but never yield my consent. I know very well how powerful a man a Secretary of State is throughout the King's dominions, so am confident that by your Lordship's favour and recommendation you might quickly help this Mr. Williamson to a Burgess-ship without doing wrong or discourtesy to a widow that wants but two years of fourscore, and to her grandchildren whose father and mother suffered as much in their worldly fortunes for the King, as most of his subjects did."

One can see that the spirited old lady has been kindled to white heat, and that very little more would make her say something very like what has been preserved by Walpole.

As to her style, she employed a Secretary, Mr. Sedgwick. That Secretary was absent from Skipton Castle for a few days at this time. It is just possible that the young Candidate, Thomas Tufton himself, became her clerk on the occasion, and transmitted his grandmother's words as he thought she said them, without anything of Sedgwick's clerkly polish.

On Feb. 9th George Williamson writes to his brother, enclosing a letter from Dr. Smith, "If the town be left

to their own freedom, your brother will carry it, but I doubt that the Countess will never let it come to that, being resolved to present one to them. If none of her grandchildren will accept, she will pitch upon Anthony Lowther. She has been heard to say that if they all refuse, she will stand for it herself, by which you may imagine what the issue is likely to be."

Feb. 13th, Sir John Lowther to Williamson says, that he had taken off his kinsman from the candidature. "I believe that her Ladyship will prevail in her resolution with regard to her relatives," "and will neither desire, seek, nor need, anybody's help to make whom she desires." I know this by a letter from the Mayor.

Feb. 23, Thomas Gabetis, Under-Sheriff, writes to Mr. Williamson, that he studied to serve him, but the Countess had planned otherwise. "The Corporation being disposed to gratify her for her great nobleness and bounty to the place. My station obligates me to render service with obedience to her commands, especially in this particular."

Here comes the period at which the undated letter preserved by Walpole might well have been written. But between him and the printers it seems to have disappeared. There is no further letter now on the subject among the State Papers.

But in her Diary, Harl. MS., she writes, "And on ye second day of March in this year my grandchild, Mr. Thomas Tufton, was chosen Burgess of ye Town of Appleby to serve in the House of Commons in Parlia-

ment therein assembled, and sitting in Parliament at Westminster, in ye place of Mr. John Lowther, my cosin's son, who dyed; so as Mr. Thomas Tufton, my grandchild, begann first of all to sitt in ye said House of Commons at Westminster as a member thereof, the 10th day of March, he being ye first grandchild of mine yt ever sate in ye House of Commons."

On 21st Sept., 1668, in 1670, and in 1674, this Mr. Thomas Tufton visited his grandmother and his constituency, still Burgess.

So she had her way with the Secretary of State, as she had had with the King, the Protector, and her noble husbands. Her motto, it may be remembered, was "Preserve your loyalty, defend your rights."

Many other women have been right in their contentions, but to very few have been given with the spirit and courage, the wealth, power, patience and opportunity to secure success. Her struggle was no purely personal one; it was the first Protest against the invasion of the rights of her sex. She saw how "legal precedent" was drifting.

Mr. Joshua Williams on Land Settlement says, "I have not been able to discover any trace of a limitation of an estate, tail, or any other estate to an unborn son prior to 3 and 4 Philip and Mary" ("Judicial Papers," vol. i., part i., p. 47).

We have already noted the decision of Judge Popham in the case of Lady Fane, which Anne Clifford quoted as precedent for her own case in vain. She utilised every opportunity of improving herself and blessing her

fellow-creatures. She would not go where she could do no good. Being invited to the Court of Charles II. she replied, "I could not go, unless I were to wear blinkers, like my horses!"

Dr. Donne said of her, that she "was able to converse on any subject, from predestination to slea-silk."

In her Funeral Sermon, preached by Bishop Rainbow, he mentioned her learning, hospitality, and encouragement of letters, and reckoned among her many virtues, Courage, Humility, Faith, Charity, Piety, Wisdom. "Thus died this great wise Woman, who, while she lived, was the Honour of her Sex and her Age, fitter for a History than a Sermon."

In 1694 Mary Astell protested against the state of things in her day in a small anonymous publication, "A Serious Proposal to the Ladies, by a Lover of their Sex." Speaking of the repute learning was held in about 150 years ago, she says, "It was so very modish that the fair Sex seemed to believe that Greek and Latin added to their charms, and Plato and Aristotle untranslated were frequent ornaments of their closets. One would think by the effects that it was a proper way of educating them, since there are no accounts in history of so many great women in any one age as are between 1500 and 1600." She refers to Mr. Wotton's "Reflections on Ancient and Modern Learning," p. 349, and makes clear that her proposal is to found an institution for the higher education of women, to be dedicated to the Princess Anne of Denmark. In 1696 she also published "An

Essay in Defence of the Female Sex, by a Lady." Defoe next year in his "Essays on Projects," proposed to establish Academies for women, and criticises "the Lady" who had suggested the idea under the conditions of a Monastery.

"Reflections upon Marriage" appeared in 1700. In the third edition of the latter, 1706, answering objections, in the Preface, she says, "These Reflections have no other design than to correct some abuses which are none the less because power and prescription seem to authorise them. 'Tis a great fault to submit to Authority when we should only yield to Reason," . . . "designing nothing but the Public Good, and to return, if possible, the native Liberty, the Rights and Privileges of the Subject. . . . She did not indeed advise women to think men's folly wisdom, nor his brutality that love and worship he promised in the matrimonial oath, for this required a flight of wit and sense much above her poor ability, and proper only to masculine understandings. . . . 'Tis true, through want of learning and of that superior genius which men, as men, lay claim to, she was ignorant of the natural inferiority of our sex, which our masters lay down as a self-evident and fundamental truth. She saw nothing in the reason of things to make this either a principle or a conclusion, but very much to the contrary, it being Sedition, at least, if not Treason, to assert it in this Reign. For if by *the natural superiority of their Sex* they mean that every man is superior to every woman, which is the obvious meaning, and that which must be

stuck to if they would speak sense, it would be a sin in any woman to have dominion over any man, and the greatest Queen ought not to command, but to obey her Footman, because no municipal Laws can supersede or change the Laws of Nature. If they mean that some men are superior to some women, that is no great discovery. Had they turned the tables they would have found that some women are superior to some men. Or, had they remembered their Oath of Allegiance and Supremacy, they might have known that one woman is superior to all the men in the Kingdom, or else they have sworn to very little purpose, and it must not be supposed that their Reason and Religion would suffer them to take Oaths contrary to the Law of Nature and the Reason of Things." "That the Custom of the World has put women, generally speaking, into a state of subjection, is not denied; but the right can be no more proved by the fact than the predominance of vice can justify it. They say that Scripture shows that women were in a state of subjection. So were the Jews, under the Chaldeans; and the Christians under the Romans. Were they necessarily inferior? That ingenious theorist, Mr. Whiston, argues, 'that before the Fall woman was the superior.' Woman is put into the World to serve God. The service she owes a man at any time is only a business by-the-bye, just as it may be any man's business to keep hogs. He was not made for this, but if he hires himself out to such an employment, he ought conscientiously to perform it. . . . We do not find any man

think any the worse of his understanding because another has more physical power, or conclude himself less capable for any post because he has not been preferred to it. . . . If all men are born Free, how are all women born slaves? Not Milton himself would cry up Liberty for Female Slaves, or plead the Lawfulness of resisting a private Tyranny. . . . If mere power gives a right to rule, there can be no such thing as Usurpation, but a Highwayman, so long as he has Strength to force, has also a right to command our obedience. Strength of mind goes along with Strength of body, and 'tis only for some odd accidents, which philosophers have not yet thought worth while to inquire into, that the sturdiest porter is not also the wisest man. . . . Sense is a portion that God has been pleased to distribute to both sexes with an impartial hand; but learning is what men have engrossed to themselves, and one cannot but admire their improvements." She winds up with another Eulogy on the good Queen Anne. But society did not then reform itself upon her suggestions.

Before the close of the eighteenth century, however, **Mary Wolstonecroft Godwin blew a loud trumpet blast,** in her indignant "Vindication of the Rights of Women." She treats the subject on lines that men and women are only now beginning to learn to read. "There can be no duty without reason. There can be no morality without equality. There can be no justice when its recipients are only of one sex. Let us first consider women in the broad light of human creatures, who, in common with

men, are placed upon the earth to unfold their faculties." "Who made man the exclusive judge, if woman partakes with him the gift of reason? Do you not act a tyrant's part when you force *all* women by denying them civil and political rights, to remain immured in their families, groping in the dark? Surely you will not assert that a duty can be binding that is not founded on reason." "Women may be convenient slaves, but slavery will have its constant effect, degrading both the master and the abject dependent." "It is time to effect a revolution in female manners, time to restore to women their lost dignity and to make them labour by reforming themselves, to reform the world." She was too much in advance of her times to be successful in spreading her views, especially as they were entangled with other opinions even more unpopular in her day. Yet she sowed the seed that is still growing. The society she pictures gives a painful illustration of the effects of the exclusively masculine creeds of her century.

Yet, during that dark age of women's privilege, there were **some Legal Cases tried** and decided, refreshing in their results, as they showed that dispassionate judges could still do something for women, when they followed the ordinary principles of Philology, and decreed that a common term could stand for woman as well as for man, even when it meant a privilege.

"A woman was appointed by the Justices to be a *governor* of a workhouse at Chelmsford in Essex, and Mr. Parker moved to quash the order because it was an

office not suitable to her sex, but the Justices upheld the appointment" (2 Lord Raymond, 1014). "My Lady Broughton was *keeper* of the Gatehouse Prison" (3 Keble, 32). "A woman was appointed clerk in the King's Bench" (*see* Showers' P.C.).

A lady's appointment to be *Commissioner* of Sewers was also contested, but it was "decided that as the office by statute" shall be granted to such *person* or persons as the said Lords should appoint, "the word *person* stands indifferently for either sex . . . and though women have been discreetly spared . . . yet I am of opinion, for the authorities and reasons aforesaid, that this appointment is *warrantable in law.* Women have been secluded as unfit, but they are not in law to be excluded as incapable," *i.e.*, the election determined eligibility; and so the Countess of Warwick was allowed to retain the benefits of her election. (*See* Callis. 250.)

In Hilary Term, 1739, the case of Olive *v.* Ingram was heard before Sir William Lee, Chief-Justice, Sir Francis Page, Sir Edmund Probyn, Sir William Chappel, Justices, to decide whether a woman could vote for a sexton, and whether she could be a sexton. A woman candidate for the office of sexton of the Church of St. Botolphs without Bishopsgate had 169 *indisputable* votes and 40 *women's votes;* the plaintiff had 174 indisputable votes and 22 women's votes. The woman had been declared elected.

The case was considered so important that it was heard four times. First, whether a woman could vote? The

counsel against argued that women could not vote in this case, as they did not do so in others; that they did not vote for members of Parliament, quoting Coke. The counsel for argued that non-user did not imply inability; that women paying Scot and Lot had a right to vote on municipal affairs; that they voted in the great Companies; that it had been decided in Attorney-General *v.* Nicholson that women had a right to elect a preacher. If they could elect to a higher office, how could they not do so to a lower? It had been decided in Holt *v.* Lyle and Catharine *v.* Surrey, according to Hakewell, "that a *feme sole*, if she has a freehold, may vote for a Parliament man." Women did come to the old County Courts, though not compellable thereto. Women are *sui juris* till they are married.

The Lord Chief-Justice said the case of Holt *v.* Lyle is a very strong case, but as I am not bound now to say whether a woman can vote for a Parliament man, I will reserve that point for further consideration. The question here is, whether a woman can be included in "all *persons* paying Scot and Lot." It was a just rule that they who contributed to maintain the elected should themselves be electors. There is a difference between exemption and incapacity. If women are qualified to pay Scot and Lot, they are qualified to keep a sexton. They who pay must determine to whom they will pay. He decided that women could vote for a sexton. Justice Page agreed with Chief-Justice Lee on the general question, but added, "I see no disability in a

woman for voting for a Parliament man." Justice Probyn agreed that they who pay have a right to nominate. It *might be thought* that it required an *improved understanding* for a woman to vote for a Parliament man, but the case of Holt *v.* Lyle was a very strong case.

The woman having thus secured a majority of "indisputable votes," the next question was, could she hold office? The objection was that women could not hold places of trust, of exertion, of anything to do with a church.

Chief-Justice Lee said a woman is allowed to be a Constable, an Overseer, a Governor of a Poorhouse, a Gaoler, a Keeper of a Prison, a Churchwarden, a Clerk of the Crown in the King's Bench. Very high offices have been held by Ladies. In regard to the Church, women have been allowed to baptise; there have been Deaconesses, and female servants *circa sacra.* (Romans xvi. 21.) Women have presented to churches. He decided that a woman *could be sexton.* The others concurred. (Leach's "Modern Term Reports," vol. vii.)

Strange, the opposing counsel, in reporting the case shortly and confusingly, says that he knew many women sextons at the time. (*See* 27 Strange.)

In the case of Rex *v.* Chardstock, where "the parish was obstinate in not having another Overseer than a woman," Justice Powell had testily declared that a woman cannot be Overseer of the Poor, that there *can be no custom of the parish to appoint her, because it is an Office* created*

* Yet before the said creation of the Statute (43 Eliz.; even in 7 Eliz.) there were Overseers of the poor in Westminster, (*see* p. 148 *Athenæum*, No. 3458, February 3rd., 1894).

by Act of Parliament. To the petitioner's election he replied that there was *not to be a woman Overseer*, an *obiter dictum* reversed in the King's Bench in 1788 in Rex *v.* Stubbs. "Can a woman be Overseer of the poor?" the only qualification necessary by the Statute * (43 Eliza.), is that the Overseer be "a substantial householder." A woman can be "a substantial householder, and therefore she is eligible." Justice Ashurst referred to the other offices that women had held, as quoted above. "This office has no reference to sex. The only question is whether there be anything in the nature of the office that should make a woman incompetent, and we think *there is not*" (Durnford and East's "Term Reports").

Yet before the time that male rivals contested the election with a woman, women had exercised the office without objection. "In the township of Gorton, parish of Manchester, 1748, Widow Waterhouse was overseer of the poor. In 1775 Sarah Schofield played the flute in the chapel choir. In 1826 Mary Grimston appointed sexton. In 1829 the vestry sent for Ruth Walker to come and break stones" (*Notes and Queries*, 5th series, vol. iv., p. 269). In the Parish Register, Totteridge, Middlesex, March 2nd, 1802, entry—burial. Mrs. Elizabeth King, widow, for 46 years Clerk of this Parish, in her 91st year. *Note.*—As long as she was able she attended, and with great strength and pleasure to her hearers, read prayers. (p. 493.) Mrs. Anne Bass of Ayleston, Leicestershire

* *Ibid.*

an excellent churchwarden for many years. (*Notes and Queries*, 5th series, vol. iv., 269, 493.)

The opening of the nineteenth century was signalised by the cessation of the Napoleonic wars; and the Peace brought wider opportunities of leisure, learning, and literature to both sexes. Yet so powerful had become the force of Custom in confusing men's ideas of Justice, that even James Mill, the pupil of Jeremy Bentham, in his masterly article on "Government" for the Supplement to the "Cyclopædia Britannica" (afterwards republished in pamphlet form, 1825) could allow it to blind his eyes to the logical results of his own reasoning. In page 494 he says, "That one human being will desire to render the person and property of another subservient to his pleasures, notwithstanding the pain or loss of pleasure which it may occasion to that other individual, *is the foundation of government.* The desire of the object implies the desire of the power necessary to accomplish the object. The desire, therefore, of that power which is necessary to render the persons and properties of other human beings subservient to our pleasures, is a grand governing law of human nature." Yet the writer of this searching analysis of the cause and need of government says elsewhere (p. 300), "One thing is pretty clear, that all those individuals whose interests are indisputably included in those of other individuals, may be struck off from political rights without inconvenience. In this light may be viewed all children up to a certain age, whose interests are involved in those of their parents. In this

light, also, women may be regarded, the interest of *almost all of whom* is involved in either that of their fathers or that of their husbands." Yet even at that early date a man, inspired by a woman, rose up to protest against this sweeping assertion. William Thompson, in 1825, published a little book, dedicated to Mrs. Wheeler, that puts the whole question in a broad modern light, "*The Appeal* of one Half of the Human Race, Women, against the Pretensions of the other Half, Men, to retain them in Political, and thence in Civil and Domestic Slavery. In reply to a paragraph of Mr. Mill's celebrated article on Government." This interesting book was the first voice of a nineteenth century man against the degradation of women. He points out that Mill has not nearly reached the level of his master, Bentham, in his conception. He asks, what is to become of those not included in the "nearly all"? what of those that are? "Why are women's interests included in those of men? Mr. Mill's article seeks to evade the equal claims of the other half of the human race to similar protection against the abuse of the same power, against the application of the general principle of security to women." "In order to include women in the proscription of children, a fiction must be manufactured, as none of the good reasons applicable to children would be found to apply to women, and this romance of an identity of interest is the ingenious, say rather, the vulgar, the audacious fiction devised" (p. 15). "From this examination it results that the pretext set up to

exclude women from political rights, namely, the inclination of men to use power over them beneficently; would, if admitted, sweep away the grand argument itself for the political rights of men." "We shall investigate the philosophical pretext of the 'article' for the degradation of one half of the adult portion of the human race in the following order:—(1) Does the identity of interest between men and women, in point of fact, exist? (2) If it do exist, is it a sufficient cause, or any reason at all, why either of the parties, with interests thus identified, should therefore be deprived of political rights? (3) Is there in the nature of things any security for equality of enjoyments proportional to exertion and capabilities, but by means of equal civil rights? or any security for equal civil but by means of equal political rights? In regard to the first, there are three great classes of women. First, all women without fathers or husbands; second, adult daughters in their father's establishment; third, wives. The first class have no men to identify their interests with; they are therefore the class, sometimes scornfully called, *the unprotected.* Adult daughters can acquire legal rights as against their fathers, but on marriage they forfeit their freedom, and are again thrown back into the class of children or idiots." "Involving of interests must mean that one enjoys as much as the other, is this true as between husband and wife?" "The very assumption of despotic power by the husbands over wives is in itself a demonstration, that in the opinion of husbands, a contrariety, and not an

involving of interests, exists between them and their wives. Domestic despotism corrupts man's moral frame." "If it is more difficult for women to labour, why should men further increase the difficulty by protecting themselves? In justice to the stronger excluding party, as well as to the weaker, all such powers of excluding ought to be withheld" (p. 149).

Many must have read, but few assimilated Mr. Thompson's able and generous arguments.

Meanwhile, in regard to the Representation of the People's Acts, the parliamentary franchises had been revised and cobbled, but in none was any but the general term used. The Act 7 and 8 William III. describes electors as "freeholders," or "persons"; 18 George II., c. xviii., 19 George II., c. xxviii., use the same general terms. That of 3 George III. limits the franchise "to persons who had taken up their freedom for 12 months."

Those of 11 George III., c. lv.; 22 George III., c. xxxi.; 44 George III., c. lx.; 11 George IV., and 1 William IV., c. lxxiv., confer the suffrage on "*every* Freeholder being above the age of 21 years, or on inhabitant householders of same age." There is no term ever used, that might not include a woman. But just at the time when the tide of civilisation and education was beginning to rise again, just after "The Appeal of Women" had appeared, by W. Thompson and Mrs. Wheeler (1825), all historical precedent was reversed. Concentrated social *opinion* became boldly expressed in *law*.

In the Reform Bill of 1832, the word "male"

was interpolated before "persons" in the Charters of the newly created Boroughs. Never before, and never since has the phrase "male persons" appeared in any Statute of the Realm. By this Act, therefore, women were legally disfranchised for the first time in the history of the English Constitution. The privilege of abstention was converted into the penalty of exclusion. Curiously enough, the framers seemed to have had dim notions of this, as in all reference to older Charters the term "person" only appeared, and the interpolating adjective "male" is suppressed. Therefore in Boroughs holding by older Charters women were not necessarily excluded, except by the reflex action of the 1832 Statute. (*See* 2 William IV., c. xlv., s. 24, 25, 31, 32, and 33.)

In strange contrast to the spirit of this Act were the Bills passed in 1833 and 1834, which gave freedom, at the nation's expense, to all Colonial slaves.

The Municipal Franchises naturally followed the example of the Parliamentary one, and in spite of Charter, and in spite of precedent, limited their privileges to "male persons."

For many years these readings remained in uncontested force, not without protest on the part of women and of the friends of justice. In 1851, Lord Romilly's Bill, otherwise called Lord Brougham's Bill, "for shortening the language of the Acts of Parliament," was passed. This decided that the word "man" should always include "woman" except where otherwise expressly stated. In that year the Earl of Carlisle presented a Petition

drafted at a public meeting in Sheffield for the extension of the Parliamentary Suffrage to women. Sympathetic minds were stirred by the great American Convention of the subject, and in the *Westminster and Foreign Quarterly*, July, 1851, appears the notable article on "The Enfranchisement of Women," by Mrs. Mill. "That women have as good a claim as men have to the suffrage and to be jury, it would be difficult for any one to deny." "It is one axiom of English freedom that taxation and representation always go together; it is another that all persons must be tried by their peers, yet *both* are denied to women." "A reason must be given why what is permitted to one person is interdicted to another." "Far from being *expedient*, the division of mankind into two castes, one born to rule the other, is an unqualified mischief, a source of perversion and demoralisation both to the favoured class and to those at whose expense they are favoured, producing none of the good which it is the custom to ascribe to it, and forming a bar to any really vital improvement either in the character or the social condition of the human race."

"It is the boast of modern Europeans and Americans that they know and do many things which their forefathers neither knew nor did; it is the most unquestionable point of their superiority that custom is not now the tyrant that it formerly was. Yet in this case prejudice appeals to custom and authority." "Great thinkers from Plato to Condorcet have made emphatic protests in favour of the equality of women." "We deny the right of

any portion of the species to decide for another portion, or any individual for another individual what is and what is not their 'proper sphere.' The proper sphere of all human beings is the largest and highest they can attain to."

The Bill of 1867. Again the "Representation of the people" came before the House in 1867. The word "man" was exchanged for "male persons" of the 1832 Charter. John Stuart Mill redeemed his father's errors and moved an Amendment that it should be made expressly to include women. "We ought not to deny to them what we are conceding to everyone else, a right to be consulted; of having, what every petty trade or profession has, a few members who feel specially called on to attend to their interests, to point out how these interests are affected by law." "The want of this protection has affected their interests vitally. The rich can make private laws unto themselves by settlements, but what of the poor?"

"Educational endowments founded for both sexes have been limited to boys. The medical profession shuts its doors when women strive to enter in. The Royal Academy shut its doors when women began to distinguish themselves. There is no meaning in the objection that women have no time to attend to politics. Do all enfranchised men take time?" "What is the meaning of political freedom? Is it anything but the control of those that make politics by those who do not?" (p. 7). His Amendment was lost. But so also was the Amendment that the phrase "male persons" of 1832 should be replaced. The Bill enacted that every man of full age,

and not subject to legal incapacity, "duly qualified and registered," should have the right to vote. During the discussion, the Hon. G. Denman, Justice of the Common Pleas, asked the following question—"Why, instead of the words 'male person' of the Act of 1832, the word 'man' had been substituted in the present Bill? In the fifth clause of the Bill he found that after saying that every 'man' should be entitled to be registered, it proceeds to say, '*or a male person* in any university who has passed any senior middle examination.' In the light of Lord Romilly's Act, if the Court of Queen's Bench had to decide to-morrow on the construction of these clauses they *would be constrained* to hold that they *conferred the* suffrage on *female persons* as well as on males." The Government did not answer the question, but it passed the Bill as it stood. This, therefore, to ordinary, as well as to logical minds, seemed to reinstate women in their ancient though neglected privileges, which the advance of education had taught them now to appreciate. Therefore, next year, 5,347 women had themselves duly registered in the town of Manchester alone, in the neighbouring town of Salford about 1,500, and large numbers in other places. Great uncertainty prevailed as to how to treat them, but most of the revising barristers threw them out. The Manchester women consolidated their claims and appealed against their decision.

The case of Chorlton *v.* Lings was heard before the Court of Common Pleas in Westminster, Nov. 7th and 10th, 1868, Lord Chief-Justice Bovill and Justice

Willes, Keating and Byles, sitting on the Bench. The facts can be found in the Law Reports, and it is good that they should be recalled to the minds of the rising generation.

Yet they are treated in a more lively manner in the pages of *The Times*. Mr. Coleridge, Q.C., and Dr. Pankhurst appeared on behalf of the women, Mr. Mellish against. Miss Becker, the woman's champion, was present, and many other ladies. Mr. Coleridge stated that there were 5,347 women duly registered in the town of Manchester, qualified *except by sex* to be electors. The Chief-Justice asked him if he had found any cases of women exercising political privileges before then? He said he had not!* But he added that the Statute for the County Courts *might* have included both sexes. The Chief-Justice interpolated, "The Common Law existed before the Statute Law. There is no trace, so far as I know, of women having been admitted to the assemblies of the wise men of the land!"† (Laughter.) Mr. Coleridge gave the examples of the Countess of Westmoreland voting by attorney and Mrs. Copley signing the indenture. Justice Willes interposed, "She might have been a returning officer, which office she unquestionably might fill!"‡ Mr. Coleridge then quoted Luders as to the women burgesses of Lyme Regis; the Statute of Henry VI., which limited suitors to forty shilling freeholders and the citizen burgesses, as all being enacted of "chusers" or "electors" in common

* *See* Ante to the contrary p. 64. †p. 10. ‡p. 70.

terms. Hallam (ch. xiii.), states that "all Householders paying Scot and Lot, and Local Rates, voted for members of Parliament." Women could be freeholders, householders, citizens, burgesses, suitors, taxpayers, therefore they could vote. It is true that the Reform Bill of 1832 read these as only applied to "male persons," but the Bill of 1867 used the term "man," while Lord Romilly's Act had decided the term "man" should include woman, unless where it was otherwise expressly stated. It was not "otherwise expressly stated" in the Statute of 1867. There was no legal restraint against women voting, and he quoted the case of Holt *v.* Lyle, which affirmed that a *feme sole* had a right to vote for a Parliament man.

Mr. Mellish, in opposition, said that Manchester was a new Borough in 1832, and claimed by its Charter the franchise for "male persons." The Bill of 1867 stated that it would not alter existing franchises. The ground of women being excluded was their *legal incapacity.* It is true no statute took their right away, because they never had it! "As well suitors as others," of 52 Henry III., did not necessarily mean women. "They could not be Esquires or Knights." Justice Willes interposing—"Not only in Books of Romance but in Books of Chivalry we see they can!" "The case quoted by Mr. Coleridge is valueless. If a lady were not present to vote, it was clearly illegal for her to do so by attorney. Mrs. Copley was Patron of the Borough, and probably acted as returning officer. In Olive *v.*

Ingram the majority of the Judges were against the woman's claim.* Peeresses could not sit in the House of Lords." Justice Willes interposing—"Yet peeresses marrying commoners, the commoners became Peers, and sat *jure mariti*. Is not that, at least, representative of a woman?" Mr. Mellish then referred to the parallel case that had been tried in Scotland. Judgment was against the women, first, because they were legally incapacitated; and second, because to *give* them a vote would be against public policy, as it was a premium on ladies to remain unmarried in order to retain their votes, and a premium to them to desire that their husbands might die in order that they might become enfranchised as widows." Mr. Coleridge said that the Scotch case had no bearing on this. Lord Chief-Justice Bovill was obliged to concede that "it is quite true that a few women being parties to indentures of returns of members of Parliament have been shown, and it is quite possible that there may have been some other instances in early times of women having voted and assisted in legislation. Indeed, such instances are mentioned by Selden. Yet the fact of the right not having been asserted for centuries raises a very strong presumption against its ever having had legal existence."† And

* He could only have read the short and misleading report by Strange, the counsel for the opposition, as the assertion does not seem borne out by the case *in extenso*. As Strange also affirmed that women could not hold by military tenure, his judgment regarding them on other points may well be doubted.

† The last recorded example of women proffering their vote was in

though he acknowledged that in many statutes "man" may be properly held to include women, he decided against this interpretation here. The rest of the judges agreed with him.

The second case, Chorlton *v.* Ressler, a woman freeholder at Rusholme with a county qualification with no relation to the 1832 Charter of Manchester, they refused to hear. Dr. Pankhurst was silenced. The Lord Chief-Justice said to him—"Do you expect to convince us that we are wrong, and that we ought to alter our judgment just given?" Dr. Pankhurst—"Your judgment is inchoate, and might be altered during the term. (Laughter.) This is not a point of Common Law but of Constitutional Law."

The next case was Wilson *v.* Town Clerk of Salford; Martha Wilson having appeared on the Overseer's List, and not having been objected to, wanted to know why she had been struck out. She was curtly referred to the decision in Chorlton *v.* Lings.

The next case, Bennet *v.* Bromfit, was a consolidated appeal of men and women against the revising barrister at Ormskirk, who had held that certain notices of objection were valid, without the reasons of objection being stated. Here the Revising Barrister had decided that Ellen Ashcroft was qualified to vote. The Lord Chief-Justice interposed—"The Revising Barrister may have decided that Ellen Ashcroft had a right

1640, less than 260 years before, p. 99. While Amersham and other towns had not voted for 321 years, p. 92.

to vote, but we have decided that she has not." "But, your Lordship, what has to become of Birch, Roberts and the other men concerned in this appeal?" "It is laid down that where appeals are improperly consolidated they cannot be heard."

And thus, in a Court of Common Law, amid peals of amused laughter, the Constitutional Privilege of British Freewomen was taken from them, as a Justice worded it, "*forever.*"

Yet Coke himself had declared "Judges ought not to give any opinion of a matter of Parliament because it is not decided by the Common Law, but *secundum legem et consuetudini* Parliamenti" ("Fourth Institute," 15).

In 1704, the Commons had resolved that "they cannot judge of the right of elections without determining the right of electors; and if the electors were at liberty to prosecute suits touching the right of giving voices in other courts, there might be different voices in other courts which would make confusion and be dishonourable to the House of Commons, and that such an action was a breach of privilege."

But this decision was accepted from the Common Law Courts, and, by Christmas, 1868, there was not a "Freewoman" left in Britain, except the *One* who sat on the throne, holding her privileges, not as her female subjects did, by Statutes written in general terms, but by Statutes where the language designates the male sex alone.

CHAPTER VIII.

THE TURN OF THE TIDE.

1868-1894.

"Who would be free, themselves must strike the blow."

It was not only the seven thousand women from Manchester and Salford who were disappointed in the results of their appeal. Women began on all sides to analyse the grounds of the judgment, and to take steps towards counteracting its baneful influence. An ever-increasing body of generous-hearted or far-seeing men joined their party, and worked with, and for them, both within and without the House of Commons. Meeting after meeting has spread enthusiasm. Petition after Petition has been presented. Bill after Bill has been brought forward. Amendment after Amendment has been proposed hitherto without success. As Mr. Stuart, M.P., once wittily said at a public meeting, "Petitions sent up by the Unrepresented, are like Bell-handles rung outside of a door, that have no bell attached at the other end. They occupy the attention of those outside of the house, but do not disturb those that are within."

The strongest plea has been taken from women. By the extension of the Franchise in 1884, the Service Clause disallowed the doctrine that taxation was the qualification for representation, and reversed the prime reason of members being first called to the House in the reign of Hen. III. If women had felt it hard that their payment of taxes had not been sufficient to purchase their right of representation, they felt it harder that their payment of taxes, invalid and inoperative as regards themselves, was valid and operative as providing the qualification of their male servants, that, in short, the qualification had been altered fundamentally. Yet some good has come out of the evil. It has provided a *reductio ad absurdum.*

It has made women see clearly that no qualification, but that of sex, lies in the modern readings of the Statutes. They cannot alter the sex, but they may alter the Basis of Privilege. Such things have been done ere now. Ripe scholars in Mathematics have been excluded the Universities because they could not subscribe to the articles of the English Church. Political Economists have been excluded the House of Commons because they were of Jewish descent. These disabilities have been removed for men. The disabilities of sex must ere long be removed for women.

Progress has been very rapid since 1868.—The "woman's question" no longer provokes somnolence nor awakes mirth: it is treated as a question of gravity. The publication of John Stuart Mills' "Subjection of

Women," in 1869, educated many minds. The humorous treatment of the question in *Fraser's Magazine* in the article entitled, "Latest News from the Planet Venus," where logical objections against Male Enfranchisement are supposed to be urged by women, taught others that there were two sides to the principles of exclusion, and that those against the Enfranchisement of men, were, to say the least of it, quite as valid, as any that have ever been brought against the Liberty of Women. Many other interesting volumes and articles have been written, making the views of women known.

Women have begun to speak for themselves, and to speak clearly—with no uncertain sound.

No new elucidation of the 1867 Charter has taken place except one very remarkable one. "If a woman's name were to get on an *election list by mistake*, and she afterwards tenders her vote, that vote must be accepted" (*see* "Warren on Election Law"). The humour of the remark is great. As by the mistakes of some men women lost their rights, by a further masculine mistake they may regain them. Is this what it imports? If not, what?

The 1868 Decision threw back civilisation theoretically 2000 years. But it necessitated opposition. One clear sign of this effect was given in 1869 when Mr. Jacob Bright moved a resolution in the House that women should vote in Municipal affairs, and it was adopted almost without discussion. The Bill was modified, but reconfirmed in 1882. The right has been exercised by

women since that time without any overturning of the social fabric.

In 1870 the vote for the School Board, and eligibility thereto, was conferred upon them. Ancient rights allowed them to vote for Poor Law Guardians; and in 1888 they were allowed to vote for County Councillors. In 1893 they were made electors, and eligible for election on Parish District Councils.

Many Bills have been passed in their favour through the toil and energy of devoted women, and the co-operation of broad-minded men.

The Married Women's Property Acts of 1870 and of 1882 have secured the earnings of industrious wives from the clutches of grasping or drunken husbands to a certain degree. A slight improvement has taken place in regard to the Custody of Infant Children. The Criminal Law Amendment Act of 1884 took a step in the right direction, though sadly crippled by its over-riding conditions. (*See* Mrs. Fawcett's pamphlet on "The Criminal Law Amendment Act of 1884.")

Various other moral Bills have showed the woman's spirit working behind the scenes in favour of justice and mercy and chastity.

And the famous Clitheroe case, in 1891, which sent back the Judge, through lack of Precedent, to the original Statutes to find a decision as to the imprisonment of a wife, bewildered the populace, and reduced the demand for wife-kicking boots.

Public Conscience is beginning to be awakened to the

errors of its judgments in regard to women. The disproportionate awards of punishment to those who steal food when hungry, and those who maltreat their wives through tyranny, do not so often now arouse the indignation of those who read the Law Reports in newspapers.

Yet the tide has not been uniform in its motion. It is the way of waves to retire before and after a rise.

I forbear enlarging on the last great decision regarding women's disabilities, by which the Judge, following the example of his predecessor in Rex *v.* Chardcroft, refused the electors of Brixton a right to elect Lady Sandhurst as County Councillor, and put another in her place that the majority of them had not elected; refused also to the County Councillors themselves their right of electing Miss Cons among their Aldermen. On May 16th, 1889, in the Queen's Bench Division, was tried the case of Beresford-Hope *v.* Lady Sandhurst. The other candidates had given notice of objections to the Lady, but the Deputy disallowed these, studying only the Statute. There were 1986 votes recorded in favour of Lady Sandhurst, and 1686 in favour of Beresford-Hope, who appealed. It was allowed, that the office being new, there was no precedent to guide them; that the Municipal Act of 1882 had enacted that "for all purposes connected with the right to vote at municipal elections, words in this Act importing the masculine gender include women." It was allowed that the Local Government Acts of 1888 contain no enactments against women.

One Judge stated that it was a new office, but that no

woman had ever sat in a Municipal Corporation. That Anne Clifford was a *solitary* instance of a woman being Sheriff.* That it was necessary that a statute should give express permission to women to be elected, because Lord Brougham's Act does not apply to this.

Another Judge stated that his opinion would have been in favour of the women's claim, but for the 63rd Section of the Act of 1888. But the majority of those concerned, accepting the assertion "that a more learned Judge never lived than Justice Willes," who had checked the Historical arguments in the case of Chorlton *v.* Lings, accepted also the decision in that case as the grounds of their Ruling. "I take it, that neither by the Common Law nor the Constitution of this country, from the beginning of the Common Law until now, can a woman be entitled to exercise any public function."

One at least they forgot whom they might have remembered, it was the Woman from whom they held their Seals of office.

Thus Lady Sandhurst, after helping her colleagues, her country and her sex, for a year, with two other brave women were turned out, and the Council and the Country were alike the sufferers thereby. "Who will take care of the Baby Farms, the Pauper Lunatic women? the many small details that a man cannot know by accident, and prides himself in not knowing by experience?"

If they have been defeated on the County Councils, the success of women as Poor Law Guardians is undeniable.

* *See* "Ante," pp. 43, 44.

The spirit of tenderness for those who receive charity in their old age, the healing spirit of sympathy for those that have been tempted; the spirit of exact investigation of accounts, and of economy in expending the ratepayers' money, has certainly been fostered by the presence of women on the Boards. The same may be said of women on the School Boards. They have offered themselves for many public appointments and offices. Sometimes they are accepted gladly; sometimes they are only not ejected because the law for doing so cannot be found.

A self-sacrificing worker in the cause of women has collected together and tabulated all the elections a woman may at present join, all the public offices she may at present fill. "The elections at which women may vote at present are: The House of Keyes, Isle of Man; Town Councils in England, Scotland, and Belfast; County Councils in England and Scotland, District Councils in Scotland, School Boards, Boards of Guardians, Local Boards of Health, Improvement Commissioners, Waywardens and Highway Boards, Road Surveyors, Burgh Commissioners in Scotland, Parochial Boards in Scotland, Select Vestries and District Boards in London, Burial Boards and Common Vestries.

They can be elected to School Boards, Boards of Guardians; also to Parochial Boards in Scotland and many other boards. They can be elected now to very many public offices, can be Members of Royal Commissions, Visitors of Lunatic Asylums, Inspectors of the Poor

in Scotland, Inspectors of Nuisances, Registrars of Births, Deaths, and Marriages; Collectors of Poor Rates, Members of Dispensary Boards, Road Surveyors, Overseers of the Poor, Churchwardens, Sextons, Parish Clerks, Local Government Board Inspectors, County Council Inspectors of Baby Farms, Noxious Trades, etc.; Factory and Workshop Inspectors under the Home Office, Postmistresses and Clerks in the Post Office, Census Clerks" (*see* "The Civil Rights of Women," by Mrs. Eva Maclaren).

Some of these duties are, of course, performed without remuneration, but in others they are paid at a fair rate, in some cases, at the same rate as men.

I take in a separate paragraph some questions regarding work and its returns, but it seems necessary first to show the advance of education during the period. I have always felt that our sex owes much to our Queen simply for *being* what she is. At the time of the Reform-Bill of 1832, she was being trained wisely for her future duties. The intellectual powers of a girl, when educated under favourable conditions, were brilliantly illustrated in her. The young Queen succeeded in 1837, and from the commencement of her reign there has been a constantly expanding view of the educatability even of ordinary girls. The want of good secondary schools was at first severely felt; but women began to patch up their education by private study or at public Lectures. The Philosophical Institution of Edinburgh, providing Lectures, Library, and Reading-Room, founded in 1846, was open

from the first to women, as well as to men, and in many a large town were similar opportunities.

Mr. Thomas Oliphant of that city, in the same year, started a large School in Charlotte Square, to which he added two "Advanced Classes" for the elder girls. There were taught Literature and Science in new and suggestive methods, that many women, still living, have rejoiced in. The Normal Schools for training Teachers had always been open to women; but these "Advanced Classes" were intended for women of leisure, those who had been accustomed to leave a Ladies' Finishing School, to become the Butterflies of Ball-Rooms, or better-class domestic drudges. A host of imitators showed the demand for schools of Mr. Oliphant's style.

In London, the Public Day School Company, since 1871, has done splendid work, and trained thousands of girls; and higher schools and colleges all over the country, have given solid education to a class of young women, to whom, formerly, the most superficial smattering was considered sufficient.

Meanwhile, the Secondary Education of women having succeeded, the higher education was attempted. When the University Local Examinations were commenced, they were opened to girls as well as to boys, to women as well as to men. They soon proved that they were able to take advantage of their opportunities. Strong efforts were made in many quarters to have them admitted to the Universities on equal terms with men. Failing this, there were strenuous attempts made to secure, at least, the

education, if not the other privileges of a University career.

The earliest University Classes for Women were opened in Edinburgh in the winter of 1867-8, when 265 women enrolled themselves as students in Professor Masson's class on English Literature alone. In 1868-9, three branches of the Arts Curriculum were offered in Literature, Natural Philosophy, and Logic and Mental Philosophy; opportunities which spread until the whole field was covered. In October, 1869, Hitchin Temporary College was opened for women in similar connection with Cambridge University. In 1873, the Oxford Association for the Education of Women took shape. In 1876, Glasgow and St. Andrews joined the work, and other opportunities all over the country had to be arranged to meet the ever-increasing demand.

The first University to grant degrees to women on equal terms was London, in the new Charter of 1878. As a non-teaching university, however, its gift of Degrees was limited by the opportunities opened to women of acquiring professional education in recognised colleges.

The Royal University of Ireland in Dublin opened in 1880, and in its original Charter grants equal terms for men and women; and the Victoria University in 1880, allowing women instruction and examination in some departments, granted Degrees where they had passed sufficient examinations.

In 1892, the Scotch Universities were opened simultaneously.

Durham offered, under certain conditions, to admit women, conditions not finally arranged, when it found by its Charter that it could not do so. Education is, however, granted women in the affiliated colleges of Newcastle, and Titles, if not Degrees, allowed.

Cambridge admits women to its examinations, grants them a recognised place, but no Degrees. Oxford examines them, but also excludes them from full privileges. [x].

In none of these Universities can women, either as Undergraduates or Graduates, vote for the University Member of Parliament. The same anomaly exists as existed in relation to a property qualification. The real qualification in a University is based upon attending certain classes, passing certain examinations, living under certain conditions, and paying certain fees. Women fulfil all these duties, but they do not, even from their Alma Mater, receive the same privilege as their brothers, on a University Qualification; because the Reform Bill of 1867, while granting it to all men on property qualification, by clause 5, limited it to "male persons in Universities." It is possible that, after a little more of the Higher Education, it will be found that they have attained "an improved understanding," enough to allow them even to vote by the side of the navvy and the pot-boy.

The twenty-six years have not been lost, however, even in regard to Women's Suffrage. Meanwhile have been growing up young men and young women, educated under the broadening effect of more equal privileges in

learning. The old restrictions seem to them meaningless in the new light of reason. A generous youth, in the older Universities, who has been beaten by a woman in a mathematical examination, feels his brow flush when he receives the reward that is denied to her, and feels shame instead of pride that he has to be protected against her competition. He would never dream of suggesting that she would "require an improved understanding to vote for a Parliament man." In the youth of the country lies hope, if the youth be but trained aright.

The result of the educational opportunities has been to give women personal capability of entering professional life. But the Professions have certain powers of excluding competitors, and they have all done what they could to make entrance difficult or impossible. Women are now admitted to the Medical Profession. Several original professions they have invented for themselves, and they have done their best with the old. They have therefore gained new powers of acquiring property. Their energy and self-dependence have revolutionised the thoughts of men as regards their capability.

John Stuart Mill, in his "Subjection of Women," p. 99, says: "If anything conclusive can be inferred from experience, without psychological analysis, it would be that the things women have not been allowed to do are just those that they succeed best in doing." Association of ideas is doing its work in forming customs and in moulding habits of thought. No longer is a woman an

incongruous sight in Halls of Learning or of Research, in Scientific Societies or on Boards of Guardians. Those who exclude women are learning that they themselves suffer by the exclusion.

They welcome them eagerly as Canvassers at elections. Ere long they will find it both natural and desirable to invite them to co-operate with them through the Ballot-box, "to choose a Knight of the Shire or a Burgess from a Borough, in the stead of all and of each of them, to go to the Parliament House, and there consulting with the Knights of other Shires," to defend the interests of *those who sent them.*

CHAPTER IX.

OTHER WOMEN.

"All sisters are *co-parceners* one with another. The elder-born has no privilege over the younger."

IF in these pages I have not noted the great majority of women who never have had, under any condition, any privilege of any kind, it is not because I have forgotten them. The needle-workers, whose toil is doubled and whose pay is halved by self-enriching sweaters; the labouring women, toiling in unfavourable conditions alongside of men now privileged with voices powerful enough to control their earnings; the tempted women, whose temptations are made strong and dangerous for them through false social and economic views; the poor married women, who may be happy only according to the degree that their husbands are better than the Law allows them to be; the poor mother to whom Slave Law is still applied in regard to their children. But the principles of Method lead us to take one step at a time; the doctrines of Logic prevent us confusing two ideas; and the Precedents of the Law Courts teach us that "where claims are improperly consolidated they cannot

be heard" (*see* Bennet *v.* Bromfit, Queen's Bench, 1868).

To lose the possible reward of any effort by misplacing it, is, to say the least of it, unwise.

Men have placed all women in one class now. We are all sisters, and "co-parceners" one with another. They have extended political privileges to all, under conditions very easy to fulfil, except to Aliens, Minors, Lunatics, Criminals, and *Women*. The Aliens may become naturalised, the Minors may attain majority, Lunatics may regain their reason, and when a Criminal has served his time he may become once more a free British Elector. The noblest and the best, the most learned and philanthropic of women, classed with the worst, are reckoned as something lower than the lowest Criminal. He may, combining with others of his class, urge on his narrow, selfish views; they may not enrich the world by advancing the high, generous ideals that lie nearest their hearts. If any women, on any qualification, become enfranchised, the disability of sex-in-itself will be removed, and to all others thereby will be given a ray of hope. It has seemed to me, through following a Psychological study of the springs of human action, that the class most likely to receive Enfranchisement first, is that which formerly had it. Therefore I, with others who would not be immediately concerned in the success of our efforts, join hands in toil to help forward the claims of those who have been British Freewomen, as that section of the community which can

claim most on Historical grounds and by Legal Precedents. We hope that they, being given the chance, will help their less fortunate sisters.

We must not forget, that the very Charters, that have so mightily multiplied the legions of *Freemen in Esse*, have likewise increased the number of *Freewomen in Posse*.

When the light increases, so that men can see to read aright, then women may be able "to take up their Freedom too."

M. Talleyrand Perigord,* once Bishop of Autun, observes "that to see one half of the human race excluded by the other, from all participation in Government, is a political phenomenon that on abstract principles it is impossible to explain." We think the phenomenon very capable of explanation, but the reason is to be found, not in the perfection of human nature, but in its incompleteness.

The Romance of the old world was carried on by the "fair women and brave men," little being said of the *plain women* and the *weak men*. Civilisation has advanced far enough to recognise the claims of the *weak men;* we want it to go further, and help wisely the cause of the *weak women*. For that we require, reversing the adjectives, armies of "brave women and fair men," *brave women* who seek not their lost birthright with futile tears, but with self-sacrificing energies, and heart-inspired

* *See* Dedication of Mary Wolstonecroft Godwin's "Vindication of the Rights of Women."

sympathies; and *fair men* who can understand that none lose through another's gain, and that theirs is not Liberty but License, that use a self-asserted power to the restriction of the rights and privileges of others.

Various tests have been proposed to mark different degrees of Civilisation. I believe that the commonplace man of to-day might suggest that the multiplication of Machinery is the most satisfactory index. More thoughtful men would consider a recognition of the first principles of Justice a safer ground. Some of these assert that the position of women is the surest test of the Civilisation of a Country and of a Time. If this be so, Nineteenth Century men must look to their character as posterity will judge it, for the Century is very near its close. They are apt to be judged not by what they have done, but by what they have left undone.

In reality one cause of the existence of so much statutory evil is this, that the majority of men are so much better than the laws—they do not understand their full bearing.

Victor Hugo has said, "Man was the problem of the eighteenth century, Woman is the problem of the nineteenth." To understand and solve that problem, a totally different set of reasonings must be applied than have hitherto been used by the majority of men. The so-called "Physical Force Argument" is, after all, but the ghost of a Dead Argument raised to scare the timid in the night. It can be valid only in Savage times, when Might makes Right. It is inoperative in Civilisations,

where Justice even *pretends* to decide the rights of men. Even under the "physical force argument," some women might be free. Many women are stronger than many men; and many women have been known to signalise that strength, not only in disguise as soldiers, or as navvies, but openly fearless and free. [ix.] The courage of Nicholaa de la Haye and Black Agnes of Dunbar; of the Countess of Derby and the Marchioness of Hamilton during the Civil War has been emulated by many others. Some men assert scornfully that women are not fit for privilege or power. To assert a thing is not to prove it. If women are not fit for the Franchise, perhaps it may be made fit for them. It is perfectly certain that they are fitted to enjoy justice and to benefit by freedom. Some sentimentalists say that women are too pliable and delicate to be exposed to the roughnesses of political life It would destroy their charm. To such objectors I would answer, Look out into the flat meadows where sluggish streamlets wind, and see in the inartistic clumps of pollard-willows an illustration of the manner in which "woman's nature" has been treated by such men. Though their roots and leaves are the same, though their upward aspirations are permanent, and their vital energies restorative, yet through top-pruning at the will of others, for the use of others, the growth and the ideals of the trees have been marred for ever. Nothing can ever restore to a Pollard-Willow its natural place in the picture-gallery of trees. But its distortion has only been individual, its offspring through freedom may de-

velope into a perfect tree, really sweet and graceful, and not artificially so.

Other sentimentalists say that women are angels, and their purity must not be contaminated by contact with the great outer world of vile realities. They mistake fragile butterflies for God's angels. These are spirits strong in His strength, whose inward purity gives them power to pass unscathed through external impurity, whose sympathy gives them knowledge and whose presence purifies and refines the moral atmosphere. The more a woman is like an angel, the more is she needed to counsel and to work with men.

That women do not want it, is another futile objection. No classes or masses ever unanimously want saving regeneration of any kind, until the few have made it seem desirable to them. We know that at least a quarter of a million women in this country do want it, and have set their hands to the present great "Appeal to the Members of Parliament" to grant them political freedom for weighty reasons. To refuse that quarter million what the other millions do not ask, is like refusing to the Eagle and the Lark the right to fly, because the Ostrich and the Swan do not care for the exercise.

Others boldly say that this is a man's world, and in it men must rule. It is true that man has long led in the Song of Life, with words and music written at his will, and woman has but played an Accompaniment. Sometimes in their Duets she has been forced to sing a shrill second, or a piping Bass, in notes that have no meaning

when they are sung alone. But he did not see or hear, and she dared not say, that this was not the sole part that she could sing or play. In the many-voiced Concert of the Universe, where harmonious "parts" should combine in balanced perfection, there are constant discords and recurrent "clangs," because man has misunderstood the Rules of Harmony. The Bass voices are necessary for perfection, but too much Bass becomes monotonous to the listening ear, and overpowering the finer notes, spoils the Conception of the Whole. If there is anything in this Analogy, it is the Woman's voice that should lead the Melody and express the meaning, and the man's voice should support her notes and enrich the Harmony. One need not analyse the various other objections. None of them are based on Truth, Justice, Logic, or History.

In my second Chapter I spoke somewhat of women's privilege as heiresses, but I would like here to add a few words about unprivileged earners.

Labour is the Basis of Property.—I do not wish now to analyse all the Economic Theories regarding the relations of Property to Labour, but only the one that touches our question. In olden times Labour was paid in kind. Money is an arbitrary sign of labour, as speech is of thought. Money is an easy medium by which the returns of labour can be transferred, either in purchase of other property or of other labour, or as a free gift or inheritance.

In ancient times fighting was considered a kind of labour, the highest kind. The Service of the King was

the most honourable, save that of the Service of the Church. Fighting and praying were alike paid in land, or in coin, and the land or the coin could be inherited by those who neither fought nor prayed. Hard-working traders and farmers also earned coin and land, and sometimes left their gains to idle children. Hence owners have not always been earners. Some writers on National Economy have inveighed against the principle of inheritance. To me it seems natural and right that what a man has produced by labour, he may leave to his descendants, at least, when he does so by old Saxon Law. There has been much virulent denunciation of Landlords, especially in relation to the *unearned increment of property* in thriving towns. I do not know any however, who have discussed a question, that bears much upon the Argument of this book.

The Unrecorded Increment of Woman's Labour.—Earners are not always owners. Except where a woman brought some fortune at her marriage it has been supposed that her husband "supported her." But in the majority of respectable middle-class or workmen's dwellings, this is very far from being the case.

The woman labours as well as her husband. If property is the result of labour, both can be expressed in figures. Let us take a man earning 30s. a week for eight hours' work a day, and five hours on Saturday, forty-five in all. The payment for each hour is 8d. As the woman spends no time walking to and from her work; as she has no rest on Saturdays or Sundays except

through extra work on other days; as she on these other days works very many more hours than her husband, she has bettered the common stock by the amount of ninety hours of work; which taken at half the wage, rises to the same sum, so that the common income should be reckoned at 60s. instead of 30s. But her share being received in kind, it is unrecognised and unrecorded. This may be made clear by supposing that some other person had fulfilled the wife's duties. In transferring flour into bread she earns what the baker otherwise would gain in the difference between flour and the price of the loaf. In washing and ironing the family linen she earns what the laundress would charge for the same, minus the cost of soap and coals. In carrying a heavy basket from the distant stores, she earns what the local grocer would have done in the difference between wholesale and retail prices; in making clothes for her children out of her own frayed garments, she earns what the draper would have charged for similar material, and what the dressmaker would have required for making it up. If she patches her husband's clothes, she earns the tailor's charge. Her daily scrubbing and cooking may be reckoned at charwoman's wages, and thus, multiplied by the hours of labour, the proportion may come out. Both she and her husband dimly feel that she has saved expenditure, they never realise that she has acquired property.

The spending also must be reckoned. The result of the man's labour has been translated into coin, a

more convenient form in which to pay rent and taxes, the Club-money and direct Shop-purchases for both. Of the common diet the man has the larger and better share. Beyond this he generally has a daily paper, a pipe, and beer. At the lowest estimation these cost 3s. 6d. a week. If he has no vices, there may be 3s. in his pocket at the end of the week, and that 3s. may be put into a Savings Bank in his name, which after years of saving, *by modern* law, he may will away from his wife and children.

What of her toil, her earnings, her increment of property? It has seemed to vanish, but it has really enriched him. This may easily be seen if, leaving her domestic employments, she goes out to labour as charwoman in the house of others at 2s. 6d. a day of ten hours. She there also receives food. The position then is this. The common house-property is increased by the expenditure on her food being saved. She still saves somewhat to the family in comfort and money by working overtime. Her husband has either to do without some of his comforts or her economies, or spend some hours of his relaxation in home-work. But at the end of the week, there is the visible increment of fifteen shillings. Before 1870 all that belonged legally to the husband, since that time it belongs nominally to the wife. That is the meaning of the Married Women's Property Bill. A husband should support a wife, but the money she earns she may keep to herself. But it is hard on wives and mothers that their share in the com-

mon property should be unrecognised when their toil is continued under the ordinary domestic conditions; but be recognised when circumstances or inclination make it possible for them to seek a visible money reward elsewhere.

We will take another example from a higher rank. Suppose a man has £300 a year, and is left a widower with four young children, he at once feels the diminution of his income, through the increase of his needs. He must have a housekeeper, at a salary, at least, of £25. Her keep costs him another £30. He must find a daily governess to teach the children, and walk with them. Without keep that may cost another £25. He has to pay the dressmaker for making and repairing the children's clothes, at least £10. He has to pay workmen to hang pictures, put up curtains, to paint the back-garden fence, or enamel the nursery bath; to cover the drawing-room chairs, or patch the dining-room sofa, quite £10 a year. His wife's whole keep had been saved through greater care in purchasing and managing food, and higher skill in cooking than either his housekeeper or assistant-girl possesses; and the man has not only lost the love and comfort of his wife, but the £100 a year which she indirectly earned for him. He thought his income was £300 and was all his own; he finds it had been really £400, as compared to the present receipts of expenditure, and that the missing £100 had been earned by her. He would have found this out had he allowed her to give music-lessons as she wished to do, a light labour that she loved. Or she might have written that weekly letter to the country

paper she was asked to do. She might have earned £100 a year at that, and that money would have been *her own* to spend in luxury or charity if she pleased, or to have saved up for her children's future. But then his tradesmen's bills would have been increased. It is absurd, therefore, to believe that a wife's earnings are limited to those hours that she takes from her husband's service and sells to some other employer of labour, who pays her in so much coin of the realm.

But the *partner* that touches the coin seems always to take the lead. We may see this in the circumstances where the positions are altered, as, for instance, among many fishing communities. There, though the men go out at night and fish, the women not only do their domestic work, but receive the fish, go out and sell it, make the necessary purchases, and "bank" the remainder of the money. The superior intelligence and relative social position of the women in fishing communities has often been noted. I have heard it scornfully said of a fisher-girl, "She marry? Why, she is not able to keep a man!" In this illustrative case, the woman holds the purse, and her share in the family earnings is recognised.

Now, if privilege is based on property, and property is based on labour, how is an industrious woman shut out from the benefits of both? Why must the man only have the earner's vote? One vivifying revelation of our half-century is the recognition of the nobility of labour. No one has so gracefully expressed it as Mrs. Barret

Browning in "Aurora Leigh," when, urging all to work, she adds:

> "Get leave to work;
> In this world 'tis the best you get at all,
> For God in cursing, gives us better gifts
> Than man in benediction."

But even with her it was too much work for its own sake. It has taken fuller education, even since her time, for women to recognise that it is equally noble and just for them to receive the reward of toil in earning as it is for a man; and to be able to keep or use these earnings as they will. A century ago, men suffered somewhat from the state of things they had themselves initiated. An eldest son that received all the inheritance and privilege had therewith to support the women of his father's family as well as of his own. It was disgraceful for him as well as for them that they should *earn money*. But they gave him labour, acting as upper servants, butts of ridicule, as the case might be, or blind worshippers when all the outer world had learned to disbelieve in him. Their recreation was the manufacture of useless Berlin-wool monstrosities; or self-sacrificing work in pauperising the poor of the parish, under the misdirection of a callow curate. Higher education was discredited; literary aspiration a shame-faced secret. Miss Austin had to hide her pen and ink and manuscripts by a piece of fancy-work kept handy, lest her world should know and speak its mind of her and her dreadful doings.

The only profession open to a lady was matrimony; and the chances of happy matrimony were thereby enormously decreased.

If the dignity of being able to earn money has raised women immensely in social life, their higher education has made this earning possible. Dependent sisters need no longer hang their heads in shame before supporting brothers. If they are not needed in their homes, they may go forth into the world, eat the sweet bread of honest labour, and become individuals.

But the woman is fettered still by the trammels of custom, by the protection accorded to males; false social and economic creeds which teach that man's work must be paid higher than woman's, whether it is better done or not; by men's power of place, which gives them power of veto; by inherited thought-fallacies and linguistic inaccuracies; by the nature of the medium through which things are seen.

Bacon wisely advised men to study all things in the "lumen siccum" or dry light of science, lest vapours arising from the mind should obscure the vision. He also pointed out that "There are four classes of Idols which beset men's minds. To these for distinction sake I have assigned names—calling the first class Idols of the Tribe; the second, Idols of the Cave; the third, Idols of the Market-place; the fourth, Idols of the Theatre" ("Novum Organum," Article xxxix., p. 53; also in lix.). "But the Idols of the Market-place are the most troublesome of all; idols which have crept into the

understanding through the alliances of words and names. For men believe that their reason governs words; but it is also true that words react on the understanding." Is the word "man" a common or masculine term?

After an impartial analysis of the laws regarding women, can men say that they are just? Can they continue to assert that they know better than women do what they need, and wish, and strain after; and if they know, will they *do* the thing that is necessary? With the best will in the world, which I believe the majority of men have, they do not know how. Only the foot that wears the shoe knows just where it pinches, and feels keenly the need of alteration.

Why must a woman be unable to free herself from an unfaithful husband if his hand is restrained from personal cruelty?

Why may a noble and loving mother have less power over the children she bore, and toiled for, than a selfish, indifferent father, who still "has sacred rights, because he has sacred duties" that he has despised?

Why must strong men inherit their father's unwilled property before weak women?

Why must a bad workman [redacted] er wages than a good workwoman?

Why are all laws in regard to [redacted] otoriously unequal?

Why have labouring men the right injuriously to determine the conditions and opportunities of the labour of women working by their side?

It is because men are represented in Parliament and women are not.

"The House of Commons is as sensitive to the claims of the Represented as the mercury is to the weather." If women, oppressed by various burdens, wish their will should reach the House, they must be given a voice. The only method by which the needs and wishes of women can be considered duly is by classing them once more among the "represented." In vain otherwise will they look to their friends in the House to help various Bills they desire to pass, or to restrain other Bills they desire not to pass. It is not their friends they require to affect, it is their opponents. And their opponents can only be converted to the woman's cause when women become Electors. That Bills affecting the liberties of more than half of the whole population should be left in the hands of "private members," that they should be left to the chance of a private members' ballot, that a Machinery Bill, or any other Bill affecting the interests of the smallest class of Electors, should be allowed to "talk out" the limited time allowed for the discussion of a question of [redacted]gnitude, shows the peculiar and sinister aspect [redacted] affecting the "unrepresented" can be viewed [redacted]

Archimedes [redacted] said that he could move the world if he had but a "place where to stand." If women want to move their world, to affect its destinies and their own, they too must have a place where to stand, and the place where to stand is the Suffrage.

"I trust the suffrage will be extended on good old English principles, and in conformity with good old English notions of representation" ("Essay on the Constitution," by Lord Russell).

What these were I have attempted to show.

Apart from the special measures urgently needed on behalf of women, most public measures affect them equally with men.

A woman grocer is as much interested in Sugar Bounties and in Tea-taxes as her male rivals.

A woman housekeeper needs as much to be protected against the imposition of frozen home or foreign meat, at fresh English prices, as does the burdened British farmer.

All women suffer as much in War, and gain as much by Peace as men do.

Noxious trades, impure air, bad drainage, poison women as they do men. Women have as much interest in the character and wisdom of the members of the house as men have, because they also suffer from the consequences of their unwise actions. How, therefore, can anyone say—these things do not concern women?

It would be better for men too, if women were represented. They would then understand the meaning of Justice, and enjoy the return blessings of fair-play. They would discover that in the very difference of women lies one great argument for their being consulted.

If public-spirited women continue to be denied the power of offering their judgment in the consensus of public opinion on political matters, the nation will be the

poorer. It will ere long recognise this. But it does not yet.

How can any Assembly be said to be "Representative of the People," when the best half of the People are not represented there; the best half in numbers, through the working out of the modern doctrine of the Survival of the Fittest; the best half by Statistics, as there are five times as many male criminals as female; the best half, by the position in which God placed woman at the Creation, at the Fall, and the Redemption. If it starts under false pretences how can it do the best possible to itself?

There is a strange suggestive duality even in our physical frame. We have two eyes, two ears, two hands, two feet, many other dualities, and two lobes of the brain to control them. If by any cause one lobe of the brain is injured, it is the *other side* of the body that becomes paralysed, but the whole body suffers with its members. If men persist in using only one eye, they not only see things out of focus, but restrict their range of vision. They can only see things on the near side of them. A Government that only uses the masculine eye, and sees but the masculine side of things, is at best but a *one-eyed* Government. The builder that only toils with one hand impoverishes himself, and makes meaner the design of the great Architect. The traveller that through some brain-sick fancy imagines one of his feet to be decrepit, can get along but by hops and jerks, or by using crutches made of dead wood, instead of

living limbs that make motion graceful, equal, and rapid. Yet thus men do, wondering, meanwhile, that the "times are out of joint."

Let them apply reason to their time-worn aphorisms, and the scales of justice to their out-worn Customs. Let them look at Humanity as it is, and as it ought to be.

Two comparisons will help them in the review, their comparison with their ancestors in this respect, and their comparison with "the perfect man in Christ Jesus," and his "perfect Law of Liberty."

For Revelation has enriched our education. Through much misconstruction and misconception the vision of Creation has been coloured by the prejudice of men.

God made man in His own image, male and female; man has made him altogether male. The Creator said, "It is not good for man to be alone." His creature asserts, "It is best for us to be alone." But it never has been good; it is not good now. Only in following out the lines of God's conception can *man* (*homo*) remain in the image of God. Early names were all connotative, recording some special quality or association, and the early name of Adam was "Dust," and the meaning of Eve is "Life." The Titanic and Earth-born Physical force of which Adam was made the representative, must be united to that which *lives and brings Life*, to make one perfect being. Only through the spiritual and practical union of Man with Woman can society be regenerated. When Woman ate of the Tree of the knowledge of Good and Evil, she learned more clearly to distinguish the good from

the evil and to choose that good. Therefore, God chose the Woman as His fellow-worker in the scheme of Redemption. As part of the curse of Satan it is part of the primeval blessing of Humanity, that "I will put enmity between thee and the Woman." The hands that restrict the Woman's power, and limit her opportunity of fulfilling her mission, are fighting against God's Will.

The words of God, "Thy desire shall be unto thy husband, and he shall rule over thee," is a prophecy of man's wrong and not a statute of man's right. To understand this we have only to collate the passage with that other in which God speaks to Cain before he slew his brother—"If thou doest well shalt thou not be accepted, and if thou doest not well sin lieth at the door. And unto thee shall be his desire, and thou shalt rule over him."

The result of the first "physical force argument" was the death of the "righteous Abel." The result of the same argument, through centuries of human existence, has been the death-in-life of the Woman whom God opposed to Satan. And the paralysis of the half has affected the whole body Social and Politic.

The Divine and Human are united through the Woman.

It is only by the representative Woman that Christ becomes the "Son of Man."

Christ, as His Father did, took women to be His friends and fellow-workers. Women never forsook Him. Woman watched by His cradle and spread the "glad

tidings" ere yet He had opened His lips. Fearless women stood by His Cross and saw the last of His life; faithful women went to the Tomb and learned first of His Resurrection.

Through the ages, the contest between Satan and the Woman and between the Seed of Satan and the Seed of the Woman, has been made unduly hard both for Man and Woman, because of the Woman being bound both hand and foot. "The Dragon was wroth with the Woman and went to make war with the Remnant of her Seed which keep the Commandments of God, and have the Testimony of Jesus Christ" (Rev. xii. 17).

Let her have Freedom and Fair Play. Let her show what, God helping her, she can do, when men cease hindering her in the development of *Herself*. They also will be gainers thereby. It will seem a new Creation when the earlier-born *Freeman* meets the later-born *Free-woman* and recognises at last that it was not good for him to have been so long alone. For any Moral Regeneration, or for any Political Stability, men must learn to distinguish Good from Evil, Justice from short-sighted Selfishness, and to see, in the recognition of Woman as a helpmeet for them *in all things*, the fulfilment of God's Will in regard to both.

The Truth shall make you *Free!*

THE END.

APPENDIX.

[i.—"Eldest daughters," page 16.] This custom was not clear among the Normans. In one well-known case at least, the younger sisters were made Abbesses or otherwise disposed of, and the eldest made by the Norman law sole heir. Mabile, eldest daughter of Robert Fitzhaymo, was heir of all his lands, and King Henry I. wished to marry her to his illegitimate son Robert. This she long withstood, giving as her reason that she would not have a man for her husband that had not two names. When the King remedied that by calling his son Fitz Roy, she said, "That is a fair name as long as he shall live, but what of his son and his descendants?" The King then offered to make him Earl of Gloucester. "Sir," quoth the maiden, "then I like this well; on these terms I consent that all my lands shall be his" (Robert of Gloucester's "Brut," and Seyers' "Memoirs of Bristol," p. 353).

[ii.—"The Countess Lucy," page 51.] It is accepted that Anglo-Saxon Earls had only official dignity which was not hereditary. But the inheritance of the lands generally carried the other privileges. Lucy was certainly made Countess of Chester by her third husband, but in some authorities she is entitled Countess of Bolingbroke, as in her own right. In Selby's "Genealogist," 1889, there is a long discussion on the point, Who was the Countess Lucy? She is ordinarily considered the grand-daughter of Leofric, Earl of Mercia (who died in 1057), and of his wife the famous Lady Godiva, who survived the Conquest. Their son Alfgar, Earl of Mercia, twice rebelled against the Confessor, and died in 1059. Lucy's two brothers were Edwin, Earl of Mercia, and Morcar, Earl of Northumbria; her sister Edgiva married first, Griffith of Wales, and second, King Harold. Edwin and Morcar were almost the only English nobles permitted by the Conqueror to retain their lands. Lucy inherited much from her father, probably with the Saxon privilege of the "youngest born," and afterwards more from her brothers. She married three Norman husbands, with whom she held the position of a great heiress. This is the view Dugdale takes. Others imagine, from her longevity, there must have been two Lucys. The writer in "The Genealogist" thinks, with good reason, that this Lucy was not the daughter of Alfgar, but the only daughter and heiress of Thorold, the Sheriff of Lincoln.

[iii.—"Women's service," page 63.] "Margeria de Cauz has the gift of the lands of Landford, held by the Serjeanty of keeping the Falcons of our Lord the King" (Berkshire Survey. Testa de Neville. Ed. III.) [1] Many other women are entered as performing military service, or paying other duties.

[iv.—"Women's Guilds," page 83.] Ed. III. imposed limitations upon men's labour, but leaves women the privilege to work free. "Mais l'intention du roi et de son conseil est que femmes cestassavoir brasceresces, pesteresces, texteresces, fileresces, et œvresces si bien de layne come de leinge toille, et de soye, brandestesters, pyneresces de layne et totes autres que usent œveront œveraynes manuels puissent user et œverer franchement come els ont fait avant ces hures sanz mal empeschementou estre restreint par ceste ordeignance." (Rot. Parl., 37 Ed. III., c. 6.) This is important in relation to modern legislation about women's freedom to labour.

[v.—"Free Kent," page 91.]

"Oh, noble Kent, quoth he, this praise doth thee belong,
The hard'st to be control'd, impatientest of wrong;
Who, when the Norman first with pride and horror swayed,
Threw'st off the servile yoke upon the English laid;
And with a high resolve, most bravely didst restore
That liberty so long enjoyed by thee before,
Not suffering foreign laws shall thy free customs bind.
Then only showd'st thyself of th' ancient Saxon kind.
Of all the English Shires be thou surnam'd the Free,
And foremost ever placed, when they shall reckoned be."

(Drayton's "Poly-Olbion." Ed. 1738, Song 18th, p. 33.)

In Testa de Neville, and Rotuli Hundredorum, the large proportion of women's names as owners of land, in Kent, proves the difference wrought by the working of the Saxon Inheritance Laws.

[vi.—"The learned Selden," page 99.] Selden writes warmly in favour of women, and quotes many authorities in support of his opinion. Besides those that have been quoted, we may notice that he refers to Sir Thomas More's Utopia. "Plato allowed women to govern, nor did Aristotle (whatever the Interpreters of his Politics foolishly say) take from them that privilege. Vertue shuts no door against anybody, any sex, but freely admits all. And Hermes Trismegistus, that thrice great man, in his Pœmander, according to his knowledge of Heavenly concerns (and that sure was great in comparison of what the owl-eyed Philosophers had) he ascribes the mystical name of MALE-FEMALE to the great Understanding, to wit, God the Governor of the Universe" ("Janus Anglorum").

[vii.—"Sir Edward Coke," page 104.] In Foss's "Lives of the Judges of England," VI. 112, he says, "In the trial of Essex, he gave the first specimen of that objurgatory and coarse style, which makes his oratory so painfully remembered." He also tells about his unhappy second marriage, and its ominous opening. In the Trials for the Murder of Sir Thomas Overburg, Foss says, "Guilty, as the parties undoubtedly were, Coke conducted the Trial most unfairly." In regard to the suspicions attending the

death of Prince Henry, Sir Anthony Weldon records—"It was intended the Law should run in its proper channel, but was stopt and put out of its course, by the folly of that great Clerke, though no wise man, Sir Edward Coke" ("The Court and Character of King James"). Sir E. Conway writes in 1624—"Sir Edward Coke would die, if he could not help to ruin a great man once in seven years." "Butler notices that Coke had not studied the Feudal Law" ("Dict. Nat. Biog."). This may account for his ignorance of the powers of women. "The Lord Coke in his Preface to Littleton, thinks Littleton's Tenures were first printed in 24 Hen. VIII.; my Lord was *mistaken*" (J. Anstiss Nicholl's "Illustrations of Literature").

In 1620 Coke was intrusted with the drawing up of the Charge against Bacon. Macaulay says, "For the first time in his life, he behaved like a gentleman." He who drew up the famous "Petition of Rights" for men, has by his careless or premeditated words drawn up also the plea of disfranchisement for women.

[viii.—"Judge or Jury," page 106.] There are numerous instances in old records of women acting as Judges or Jury, at least in women's cases. "On 1st February, 1435, Parochia Edlyngeham, Margareta Lyndseay contra Johannem de Longcaster, Johannem Somerson, Johannem Symson, Diffamata quod fuit incantatrix . . . negavit et purgavit se cum Agnete Wright, Christiana Ansom, Alicia Faghar, Emmota Letster, Alicia Newton, et restituta est ad famen, et Johannes Longcaster, Johannes Somerson, Johannes Symson, moniti sunt sub pœna excommunicationis quod de cetero talia non prædicent de ipsa."

On 3rd October, 1443, "Beatrix Atkynson and Margareta Donyll habent ad purgandum se cum 6th manu mulierum honestarum vicinarum suarum" ("Depositions from the Court of Durham. Surtees Society," p. 28, 29). See also "Liber Albus."

[ix.—"Physical Force Argument," page 163.] "The Lord Marquis of Hamilton's Mother commands a Regiment, and leade them into Edenborroughe with a case of pistols at her saddle, and a case at her side. Our ladys are not more skilfull in curlinge and poudringe then the Scotchwomen in charging and discharging their pistols." (Letter from Sir Henry Herbert, Edinburgh, June, 1639. "Letters of the Herbert Family.") The Women Volunteer Movement of to-day shews that the spirit of courage and patriotism is not yet extinct.

In Somerset, "One of the ferdell-holders (i.e., holder of a quarter of a virgate of land) found all the Blacksmith's work for the Lord's horses and ploughs, and at the time of the compilation of the Custumal of Bleadon in the 13th Century," this RENT for her land was paid by the widow Alicia as Common Smith of the Vill or Manor. ("Papers on the Custumal of Bleadon, as illustrative of the History and Antiquities of Wilts," 1857, p. 193.)

[x.—**"Women and the Universities,"** page 155.] The Universities of this country have for some time recognised in a gracious, but far-off way, the industrial and educational needs of outsiders. The University Local Examinations, the University Extension Lectures, etc., instituted through consideration of the intellectual advance of the people, have always been open to women as well as to men. But the relations of women to Universities, where they suffer, or have suffered disabilities on the ground of their sex alone, are anomalous.

The younger Universities are generally more liberal to women than the older ones. Yet there is no universal rule, based upon observable conditions. The general uncertainty makes the position of things as they are, worth noting. Taking the Universities, not in the chronological order of their foundation, but in the order of their opening to women, the oldest is the London University. It may be considered as a foundation either old or young. In 1548, Sir Thomas Gresham founded in London, chairs for Divinity, Music, Astronomy, Geometry, Law, Physic and Rhetoric, a liberal course for his days. In Stow's "Annals," 1615, there is a notice of "the three famous Universities of *Oxford, Cambridge and London.*" I do not now go into its claims to the title at that period.

On 19th August, 1835, the Duke of Somerset and others petitioned for a Charter for London University, and in November of that year the words were added to their claim—"It should always be kept in mind that what is sought on the present occasion is an equality in all respects with the ancient Universities, freed from those exclusions and religious distinctions which abridge the usefulness of Cambridge and Oxford." Their demand was granted, and London University refounded, but it was only men who were "freed from those exclusions." Its first Charter was formally renewed in the beginning of the present reign, and a supplementary Charter in 1850 permitted it to affiliate certain Colleges, but later on, its duty became limited to *Examination.* The actual Charter by which it is now governed is that of January 6th, 1863. In 1807 another Charter conferred upon the University the power of instituting special examinations for women. In the same year the Reform Act gave the graduates the right to send one Representative member to Parliament. The Examinations for Women did not thrive. It was found they did not want a system devised exclusively for their use. After much discussion, the Senate and Convocation agreed to accept from the Crown in 1878 a supplemental Charter, making every Degree, Honour, and Prize awarded by the University, accessible to both sexes on perfectly equal terms. The University of London was thus the first Academic body in the United Kingdom to admit women as Candidates for Degrees. This supplement decrees that "5. All the powers and provisions relating to the granting of Degrees and Certificates of Proficiency contained in our said recited Letters Patent of the 6th day of January in the 26th of our reign shall henceforward be

read and construed as applying to women as well as to men, and that, except as hereinafter mentioned, all the parts of the same Letters Patent shall be read and construed as if the extended powers hereby conferred were contained in the same Letters Patent.

"6. And further, know ye that we do in like manner will and ordain that notwithstanding anything in our said Letters Patent of the sixth day of January in the twenty-sixth year of our reign to the contrary, no Female Graduate of the said University shall be a member of the Convocation of the said University unless and until such Convocation shall have passed a resolution that Female Graduates be admitted to Convocation." Later, Convocation did pass that resolution. Women are now admitted to their general Council. The recording of their vote for their member of Parliament depends on other decisions. "The Visitor," is a woman, our Queen. Therefore women cannot complain much of London University. There, they have had a fair field and no favour. The records of the results can be followed in the University Calendars. Women have attained a very good position, and many honours in proportion to the relative number of their candidates.

As London University grants degrees to all capable persons whether educated in Academic haunts or private homes, there are no Colleges that can be said to be "affiliated." But there are several Colleges that prepare students definitely for the London Examinations. Chief of these is University College, London. There, since the opening of London University, women have been freely admitted to all the instruction in the Science and Arts Classes, with their prizes and honours. They require the recommendation of the Lady Principal (Miss Morison) before admission as students, but that can be easily attained by those really desirous of attending the classes. Wives and daughters of Members of Senate or former Members of Senate are admitted free, and without recommendation in the same manner as are sons of the same gentlemen.

The medical classes are, however, still closed, and women have to be trained in Medicine in their own Medical School in 30 Handel Street, whence they can take London Degrees. During the past year 143 women students attended the College, and 14 have been registered as full medical practitioners. Admission to the legal practice of Medicine is regulated by the General Medical Council of Great Britain and Ireland in accordance with the powers conferred by Act of Parliament upon that body, under whom are 20 examining boards. Women educated in this school are eligible also to the exams. of the Society of Apothecaries, London, and to other examinations in other University centres. The British Medical Association is now opened to them. King's College, Strand, admits women, but they are kept apart. What is called "The Ladies' Department" is at 13 Kensington Square, a thriving centre. They can there prepare for London University Exams.

The Mason College founded in Birmingham by Sir Joshua Mason, Knt., 23rd February, 1875, opened by Prof. Huxley, in 1880, admits men and women on the same terms.

Aberystwyth University College of North Wales was opened in 1871, and there were women students in the musical department in its early years. The first woman admitted to full College Course was one who took an Exhibition of £15 in 1884. There was no mention of sex in the Charter of the College, and therefore she only asked admission, and was received. The number of women students gradually increased, and after various attempts, a Hostel was founded for their reception, and residence made compulsory for all students not living with parents or guardians. A rapid increase ensued in the number of women students, under the wise care of Miss Carpenter, and they now number over 120. All prizes, the "open" scholarships, are free to women, as well as the Associateship of the College. In the London exams. the Aberystwyth women students have done well. Other Welsh Colleges receive women. This year the united Colleges of Wales have applied for a University Charter, and the Professorships, as well as Studentships, are opened to women.

We cannot go into full details of all the Colleges that send up women students to London University Examinations.

Dublin University, founded in 1591, was incorporated in 1593, and other colleges were afterwards affiliated. In 1869, women were admitted to Queen's College Examinations.

The Charter of the Royal University of Ireland in 1880, decided that "all Degrees, Honours, Exhibitions, Prizes and Scholarships in this University are open to students of either sex." The Royal University of Ireland, absorbing the old Queen's University, the offices and emoluments of the one University merely passed on to the other, with fuller powers and wider scope. It is now also an examining body as is London.

At the commencement of the Royal University, many qualified women students attained the degrees thereby thrown open to them. Since that time 665 women have been granted B.A. degrees, 90 M.A., 22 LL.D., and 20 LL.B. The old Queen's Colleges of Belfast, Cork, Galway and others, prepare students for the Royal University, private students having, however, the same privileges.

As all prizes and exhibitions are said to be open to all matriculated students of the Colleges, some time ago Miss Lee (daughter of the Late Archdeacon Lee of Dublin), now Principal of the Old Hall at Newnham College, was proposed for a Fellowship. She only gained 4 votes, one being that of Archbishop Trench; but the fact of her being proposed and voted for at all, showed that her sex did not exclude her from competition.... The Act under which the Royal University was founded, excludes women from Convocation,

unless they were members of the Senate. Convocation at present consists of the Senate, and of qualified male Graduates. The Senate, however, at first appointed by the Queen, consists of 36 Senators and one Chancellor, and except 6 Graduates, afterwards elected by Convocation, it does not exclude women. The word used in the Charter is invariably "person."

The Royal Charter of the Victoria University is dated 20th April, 1880, which incorporates Owen's College, Manchester; University College, Liverpool; and Yorkshire College, Leeds, with freedom to admit other Colleges. It makes no distinction of sex. It says:—

"IV. The University shall have power to grant and confer all such degrees and other distinctions as now or at any time hereafter can be granted and conferred by any other University in our United Kingdom of Great Britain and Ireland, to and on all persons, male or female, who shall have pursued a regular course of Study in a College in the University and shall submit themselves for Examination."

Medicine and Surgery degrees are here excepted. The supplemental Charter of 20th March, 1893, however, ordains:—

"I. The Victoria University shall have power to grant and confer to and on all persons, whether male or female . . . Degrees and Certificates of Proficiency in Medicine and Surgery."

The Medical Degrees are therefore theoretically open to women. But the characteristic of the Victoria University is, that it examines those only who have gone through a course of study in each subject of examination in a College of the University, and the privileges of the University depend upon the arrangements made at the Colleges. The Medical Schools at all three Colleges are still closed to women, and therefore the Victoria University medical degrees are practically dependent on extraneous teaching. If women want a medical degree "they must study for two years, in one of the affiliated Colleges, and take their medical classes at a recognised school such as Queen Margaret College, Glasgow, or the Medical School for Women, Edinburgh."

Women were admitted to some classes in Owen's College, Manchester, in 1876. All the Science and Arts classes are now open, but Biology, and some of the Laboratories are closed. In the junior classes men and women are taught separately, though the examinations are the same. The Department for Women of Owen's College, Manchester, is at 223 Brunswick Street.

At the two younger colleges of Liverpool and Leeds, all Classes and Laboratories are open to women, except in the Medical School.

A fair proportion of women's names appear in the Degree Lists and in the Prize Lists. Several women are members of Convocation, and there will soon be more. Many of them are Associates of their College. Besides full Degrees, there are Certificates of Pro-

ficiency granted by this University to women. All *University* prizes are open to women, and the majority of College Prizes.

Edinburgh University was founded in 1582 on the site of the lonely Kirk of Field, where Darnley met his death. The present building, however, now called the Old University, was only begun in 1739. It is to this College alone that women are as yet admitted. The University New Buildings, commenced in 1878, were partly opened for teaching purposes in 1880, and completed in 1888. This has been handed over to the great "School of Medicine," of Edinburgh University. The McEwan Hall for public Academic Ceremonials and for the conferring of Degrees was completed the year before last, and some women graced its first public function.

Edinburgh retains the honour of having been the earliest place in the British Islands where women were admitted to the advantages of a University education. Mrs. Crudelius in 1866 conceived the idea, and with an ever-increasing army of sympathisers, she formed in 1867 the "Edinburgh Association for the Higher Education of Women," afterwards entitled the "Edinburgh Association for the University Education of Women." This did good work. In the session 1867-8 a class was opened in a separate hall, in which Professor Masson delivered his University Lectures on English Literature, 265 women enrolling themselves as students. Encouraged by their success, in November, 1868, a second winter session, the Association arranged for three classes in three departments, "the Literary," represented by Professor Masson's on English Literature, in which 129 women appeared; "the Scientific," represented by Professor Tait's class of Experimental Physics, in which 141 women entered; and "the Philosophical," represented by Professor Fraser's Lectures on Logic and Psychology, the first time such a course had been offered to women, and 65 women took advantage of it. The quality of the work done both in Examinations and Essays, showed that Intellect was of no Sex. The Association worked on patiently through the years, more and more gaining the sympathy and co-operation of the University, which soon granted Certificates for proficiency in any three subjects, proved in examinations of the M.A. Standard, the first of which was gained in 1873. Separate Honours Examinations were also instituted.

Later, a higher Certificate, called a Diploma, was offered to those who had passed in seven subjects of M.A. Standard, one at least in Honours. The first was gained in 1875, before any other Scottish University had considered the needs of women, and before London or Dublin had opened their doors. The disturbances made against the attempts by women to gain admission to the medical school, had made it more difficult for the Association to gain what it desired, the opening of the Arts Classes and Degrees to women. But it lived to make warm friends among members of the University Senate who

were at first its foes. The Scottish Universities Bill coming into force the year before last, empowered the several Scotch Universities to open their doors to women in their own time and in their own way. Women students were to matriculate under the same conditions as men.

Ordinance 18. IX.

"1. It shall be in the power of the University Court of each University to admit women to graduation in such Faculty or Faculties as the said court may think fit.

"2. It shall be competent to the University Court of each University to make provision within the University for the instruction of women in any of the subjects taught by the University either by admitting them to the ordinary classes, or by instituting separate classes for their instruction. Such classes shall be conducted by the Professors in the several subjects, or by Lecturers specially appointed for the purpose by the University Court, provided always that the Court shall not institute classes where men and women shall be taught together, except after consultation with the Senatus, and provided also that no Professor whose commission is dated before the approval of this ordinance by Her Majesty in council shall be required, without his consent, to conduct classes to which women are admitted.

"3. The conditions for graduation within any Faculty in which women are admitted to graduation shall be the same for women as for men, with the exceptions," that there are advantages offered at present to women which may be classified under the name of Retrospective Recognition. "So long as provision is not made for the education of women in any University, qualifications gained at other recognised centres will be accepted as preparing for examinations and degrees."

"4. So long as provision is not made for the education of women in Medicine, the University is empowered to admit to graduation women trained at other home or foreign Universities. So soon as, within any of the said Faculties in any University, provision is made for the instruction of women in all subjects qualifying for graduation, . . . the conditions for the graduation of women within such Faculty shall be the same as the conditions for the graduation of men.

"5. Women who had begun their studies in recognised University classes before this date to be admitted to graduation, as if they had been members of the University and, if they had passed in the specified seven subjects qualifying for M.A., to receive that degree without further examination."

The result of this concession is that eight ladies received the degree of M.A. of Edinburgh University, and several more will be qualified through the next Examination. Those who take their Degree will be admitted to the General Council. Therefore, Edinburgh stands at the head of the Scotch Universities in the order of

time of the admission of women. She will have several women graduates before any other University can present one. That, of course, was only made possible by her efforts commencing earlier, and her work being more systematic. One hundred and thirty-four women in all have taken at least three of the subjects towards their Degree Examination. Edinburgh has simply admitted women to mixed Classes in the Old University, with all privileges in Arts. About one hundred and twenty women have matriculated this session. A Hall of Residence is now being built for women, to be called the Masson Hall, in commemoration of the life-long devotion of Professor David Masson to the cause of Women.

The New University Building, the School of Medicine, is still closed. But women have now fuller opportunities granted them of studying in the "Medical College for Women," 30 Chambers Street, Edinburgh, with liberty of clinical instruction in the Royal Infirmary. This College was founded by the Scottish Association for the Medical Education of Women, the arrangements for teaching and fees being the same as those of the School of Medicine, the Teachers and Lecturers being duly qualified Lecturers of the School of Medicine, and the classes recognised as the Extra-Mural School. Since degrees can be taken in London, Victoria, and elsewhere, the prime difficulties in the medical education of women are practically overcome. Thirty-four women at present attend these classes.

St. Andrews University was founded in 1411; and besides its own colleges, it has affiliated to it, "University College," Dundee. This famous University has long been friendly to women. In 1876, it added to the ordinary local Certificates a new and higher "Certificate for women" in three subjects, of the same standard as the M.A. Degrees; and later on an examination in seven subjects secured a Diploma with the Title L.A., and the privilege of being allowed to wear the University Badges. As residence at the University was not necessary, and as there was no limiting clause as to age, though the questions were hard, and the standard high, these examinations became very popular. In 1892, there were 700 candidates at 36 centres, among which were Berlin, Birmingham, Constantinople, Cork, Dresden, Dublin, Edinburgh, London, Marseilles, Pietermaritzburg, Seville, Truro, Uitenhage, and Wolfenbüttel. They have thus spread widely over the continent of Europe, and invitations have been sent to form centres in America, which are now under consideration. This Diploma is recognised as equivalent to the "Brèvet Superieur" for admission to the Sorbonne Examinations in Paris.

Some of the St. Andrews Professors had given lectures to women in the neighbouring town of Dundee as well as in St. Andrews. So the soil was prepared for the passing of the Scottish Universities Bill. St. Andrews nobly went as far as it could, in fulfilling these, and

therefore in the University Calendar for the session appears, "The University Court of the University of St. Andrews, in consultation with the Senatus Academicus, has resolved to open *all* its classes in Arts, Science, Theology and Medicine to women students. Women may henceforward matriculate as Students of the University and be admitted to any class or classes they may select, with a view to graduation in Arts, Science, Theology or Medicine. In the year 1893 a sum of £30,000 will become available for Bursaries or Scholarships at the University, one half of which is reserved for women students exclusively; those who intend to enter the Medical Profession having a prior claim to these Bursaries, though they are tenable while Arts and Science Classes are being attended. A Hall of Residence for women students will be instituted, where they can live together under a head." Mrs. Morrison Duncan of Naughton's liberality has made it possible to offer ten Bursaries to women at the very outset of their career. Nineteen women matriculated in October. The LL.A. examinations will go on all the same for those who cannot attend the University.

Glasgow University was founded in 1450, by a Bull from Pope Nicholas V. After the Reformation, in 1577, James VI. gave it a new Charter. Glasgow University has some special claims to notice in the way that it has followed the lines of the Scottish Universities Acts of last year.

In 1876 a movement for the University Education of Women was initiated, and the Glasgow Association for the Higher Education of Women founded. Shortly afterwards a liberal friend gave ground and funds to build a College for women, to be called the Queen Margaret College. There the University Professors and Assistants have lectured, good work has been done and examinations instituted. But when the ordinances of the Scottish Universities Acts came into force in February, 1892, the existence of Queen Margaret College endowment enabled the Glasgow Senatus to proceed on different lines from the other Universities. The Executive Council of Queen Margaret's College arranged to hand over to the University the College Buildings, grounds and endowment, on condition that they should be used for University Classes for Women exclusively. Their College therefore becomes University Property and Part of the University, and the old Executive Council is about to dissolve. It is now governed by the University Court and Senate, who make all the appointments and arrangements for classes; the classes qualify for the University Degrees, in the same way as the classes at Gilmore Hill, the Men's University Buildings.

Students must matriculate as the men do; they have seats in the College Chapel, use of the Libraries and Museums; the University prizes are open to them, and graduates will be admitted to Convocation. There is a full curriculum kept up in Arts and Medicine,

and the girls who go up for preliminary Arts, Science and Medicine Examinations and Degree Examinations are examined along with the men, under the same conditions. There is a good attendance at the classes, 86 having matriculated in Arts, and 45 in Medicine, 131 in all compared with 1935 men students. The votes of the undergraduate girls have been solicited already in the election of the Lord Rector.

If the apparatus in the Queen Margaret College is not sufficient to illustrate the Science and Medical Classes, the supply is supplemented from the other building, or the girls may go there for demonstrations, at different hours from the men. There are several women going up not only for Preliminary exams. in Arts, but for Professional exams. in Medicine.

The relation between the two Colleges has been sometimes called Affiliation. This is incorrect. Affiliation supposes a separate governing body and other details of separate existence. At one time affiliation was suggested, but the Rulers of Queen Margaret College preferred that it should be taken over and become a part of the University. The new arrangement works very well, and in a large University like Glasgow the women prefer it to mixed classes.

The Medical Department of the College is the only active School of Medicine for women belonging to a University in this Country. As applications are constantly being received, the number of its students is likely to increase rapidly. After Matriculation, women are admitted to the Hunterian Museum, have permission for the usual attendance in the Wards and on the clinical Lectures at the Royal Infirmary. The classes in Medicine being University classes, certificates of attendance thereon may be used by those who propose to become Candidates for the degrees of the other Scottish Universities, for those of the London University, Victoria University, and the Royal University of Ireland, as well as for the Qualification of the Scottish Corporations, the Colleges of Physicians and Surgeons of Edinburgh and the Faculty of Physicians and Surgeons of Glasgow (Conjoint).

Glasgow University, like that of Edinburgh, for the time being, has made those differences in favour of women that we call Retrospective Recognition, of those who had attended classes in Queen Margaret College, though there are none completely ready to take full advantage of it. As soon as arrangements are fully made for their education, the conditions for women will be the same as for men.

The University of Aberdeen was founded in 1494. Women's claims on its attention have not been so persistent as they have been in the Southern Universities. But it rose to the new conditions of the Scottish Universities Acts.

Ordinance No. 18 of the Universities Commission having passed,

the University Court of Aberdeen, on the recommendation of the Senatus, resolved to admit women to *Graduation* in *all* Faculties. As to their *instruction*, women are, within the University, on the same footing as men, in the Faculties of Arts and Divinity, Science, and in the Faculty of Law, except *so far* as the class of Medical Jurisprudence is concerned, which is classified with the other Medical classes proper, in which the University has meantime considered it not advisable to provide the necessary instruction.

Eleven women have matriculated this year and have commenced with the Class of Literature. In answer to a question the Secretary of the Senatus replied, "When we have any women Graduates, questions of their privileges will have to be considered. But I can see no ground on which membership in our General Council can be denied to them, except there be any legal difficulty connected with the right of every member of Council to vote for the M.P. for Glasgow and Aberdeen."

Durham University was founded in 1832-33 by the Dean and Chapter of Durham; the Newcastle-on-Tyne College of Medicine was made an integral part of the University in 1870, the Newcastle College of Physical Science in 1871. There is no notice of Women in the Calendar. Women have from the beginning been admitted to the classes of the College of Physical Science in Newcastle, but not to the Medical College in Newcastle nor to the Durham College itself. A strong petition was drawn up in 1881 to admit women to *full* privileges in Durham, but Convocation refused to allow women matriculation unless a Hostel were established, that is, they would have no "unattached" women students. It is always difficult to find funds for the needs of women, and the "Hostel" was not at once forthcoming. Convocation assented to the following:—

"1. That female students who shall have fulfilled the requirements of the University regarding residence and standing shall be admitted to the Public Examinations and have first degree in Arts of the University."

Then the University discovered, or thought it did, that by their Charter they could not admit women to full Degrees, and so the matter dropped. In Newcastle, however, women have gone on attending the classes. They can go in for the same Examinations as men, and gain the Class Prizes, but they are excluded from degrees. Titles such as A.S.C., "Associate of Science"; C.E., "Civil Engineer"; L.S., "Licentiate in Surgery," they may obtain. Among the Students working for A.S.C., women are about 1 to 30. Among the ordinary matriculated students, the average of the sexes are about equal. Among non-matriculated students who attend such classes as Literature, Fine Art, etc., the women are about 30 to 1.

When we come to the older Universities, it seems but just to con-

sider the women-benefactors as being related somehow to the Colleges; and through them to the University itself.

The oldest College at Cambridge, St. Peter's, was founded in 1284. The second, Clare College, was founded in 1326 by the Lady Elizabeth, sister and co-heir of Gilbert, Earl of Clare. Three scholarships in this college were founded by Mrs. Tyldesley de Bosset.

Pembroke College or Valence-Mary, 1347, was founded by Mary de St. Paul, widow of *Aymer* de Valence, Earl Pembroke.

Corpus Christi, 1352, was founded by the Guilds of Corpus Christi and the Blessed Virgin Mary. These old Guilds had "sustren" as well as "brethren" in their fraternity, and consequently women had something to do with that foundation, however little it may generally be recognised.

Queen's College was founded 1448, by Queen Margaret of Anjou, and refounded by Elizabeth Widville, Queen of Ed. IV.

St. Catherine's was founded 1473, by Dr. Robert Wodelarke, but large benefactions from Mrs. Mary Ramsden endowed 14 scholarships. Other benefactors were women.

Christ's College, 1505, was refounded by Lady Margaret, Countess of Richmond and Derby (mother of Henry VII.), and 2 scholarships were given by Lady Drury.

St. John's, 1511, was also founded by Lady Margaret (mother of Henry VII.) and a fellowship was given by Lady Jane Rokeby.

Magdalen holds benefactions from the Countess of Warwick, Lady Anne Wray, Mrs. Margaret Dongworth, and others.

To Trinity, 1546, Queen Mary added 20 scholarships. Mrs. Mednyanszky is an important benefactor.

Sidney Sussex was founded 1594 by Lady Frances Sidney, Dowager Duchess of Sussex.

These are some of the gifts women have given to Cambridge. It proves that the sex valued and honoured learning.

Hitchin Temporary College was opened for women by the Cambridge Association for the Education of Women, in Oct., 1869, and a rapid success enabled the friends of women to incorporate Girton College, 1872, to which the students removed in 1873, and Newnham was founded in Oct., 1875.

At first there was no connection with the University at all. Then women were allowed to have examination papers, and to answer the questions, but no information was given as to the Class of the Student except privately. No official record was kept of these informal examinations. But in 1882 by a grace of the Senate the examinations were thrown open to women students of Girton and Newnham who had passed certain preliminary exams. and had resided the proper number of terms, had paid the customary fees, and had been recommended by the authorities of their College. Class Lists have ever since been published in which the exact place

of the women is mentioned with regard to the men. Some women, such as Miss Ramsay and Miss Fawcett, would have held the first place, had they been allowed to take it. No Prizes or Degrees are granted them by the University. But what is called a Degree Certificate is conferred upon any student whose proficiency has been certified by the standard of examinations qualifying for B.A., which entitles the holder to all the rights and privileges of certificated students. These are signed by the Vice Chancellor. There is no probability at present of their receiving degrees. The objection is that this would make them eligible as members of senate. As there is no matriculation, women cannot even become under-graduates in Cambridge.

The Cambridge University Calendar now gives the conditions of the admission of women to University Examinations.

Oxford, oldest in foundation, is youngest in regard to granting privileges to women.

University College, Oxford, is said to have been founded in 872 by Alfred. In it a Civil Law Fellowship was founded by Mary Anne, Viscountess Sidmouth.

Balliol College was founded by John Balliol and Devorgilla, his wife, 1263-8. Eight scholarships were founded by Hannah Brackenbury, in Law, History, and Natural Science.

In Exeter College, founded 1314, 2 scholarships were given by Miss Hasker.

Queen's College was founded 1340, by Hubert de Eglesfield, Chaplain to Philippa, Queen of Edward III.

In Brasenose, founded 1509, Sarah, Dowager Duchess of Somerset, founded 22 scholarships, and Misses Colquilt, 3 exhibitions.

Christ Church holds 2 scholarships from Mrs. Dixon, and Miss Slade's exhibition.

Jesus College was founded in 1571, by Queen Elizabeth. Wadham in 1612, by Nicholas Wadham of Merifield and Dorothy, his wife.

To Pembroke College, founded 1624, by King James I., his Queen, Anne, attached a Canonry of Gloucester to the Mastership.

To Worcester, founded 1714, Mrs. Sarah Eaton was a benefactor.

It may be that the result of there being fewer female benefactors in Oxford than in Cambridge may have affected the comparative want of gratitude to women in this city. Whatever be the cause, the oldest University is the hardest to move.

Oxford Lectures for the benefit of women were started as early as 1865, but not in connection with the University. In 1873, another scheme was set on foot by a Committee of Ladies. But the formation of the "Association for the Education of Women," such as at present exists, was first suggested by Professor Rolleston, June, 1878.

The first series of Lectures commenced in October, 1879. In 1880 one College Lecture was attended. At the present time students are admitted under certain regulations to lectures in almost every College in Oxford. The Lectures are of three kinds. Those of the University generally are open without fee, those in the different colleges for men, for which fees are paid, and those provided by the Association, for which fees are paid. Until 1884, the only Oxford Examinations open to Students of the Association were those provided for women by the Delegates of Local Examinations. In that year, in answer to a petition put forward by the Association and numerously signed by resident M.A.'s, a Statute was passed by Convocation opening to women, Honour Moderations, and the Final Honour Schools of Mathematics, Science, and Modern History. In 1888, another Statute admitted women to the Final School of Literæ Humaniores, and in 1890, to the Honour Law School and the Final Examination for Mus. Bac. All examinations for B.A. in Honours are now opened to women, except Theology and Indian languages, for which no application has been made.

The University, like that of Cambridge, does not admit women to Matriculation, or Graduation, but it does not impose on them all the restrictions of men.

The University Examinations for women still provide for all Pass Subjects and for the Honour Subjects of English and Modern Languages, in which there are no University Examinations for men.

Three Halls have been founded, Lady Margaret Hall, 1879 (Church of England with liberty for other denominations); Somerville Hall, 1879 (non-denominational), and St. Hugh's, 1886 (Church of England). There are also unattached students residing in Oxford under certain regulations. From 1879 to 1892 the number of students has been in all 539. But though women are admitted to the Oxford University Exams., Honours and Pass, and are ranked in Classes, they have no reward or recognition by the University, and no notice of women appears in the University Calendar.

Therefore in a country in which Free Trade principles have been forced on the British farmer for the benefit of other classes of the community, however prejudicial to his own, protection still reigns in these old Universities, that illogically "protect" the stronger against the weaker sex, who are thus forced to prove their capability in face of many difficulties and overwhelming odds.

Women are admitted to the following privileges :—

1878. London :
Subordinate Colleges give Education. Examination. Degrees. Convocation.

1880. Royal University of Ireland :
Subordinate Colleges give Education. Examination. Degrees. Convocation.

1880. Victoria Combined Colleges :
Matriculation. Education (Partial). Examination. Degrees. Convocation.
1892. Edinburgh :
Matriculation. Education (Partial). Examination. Degrees. General Council.
1892. St. Andrews:
Matriculation. Education. Examination. Degrees. General Council.
1892. Glasgow :
Matriculation. Education Separate. Examination. Degrees. General Council.
1892. Aberdeen :
Matriculation. Education (Partial). Examination. Degrees. General Council.
Durham. . . . . Education (Partial). Examination. Titles.
Cambridge. . . . Education (Partial). Examination. Certificates.
Oxford. . . . . Education (Partial). Examination. Certificates.

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